

AN
ANSWER
TO THE
DECLARATION
OF THE
AMERICAN CONGRESS.

[Price 2s.]

ANSWER

TO THE

DECLARATION



AMERICAN CONGRESS

THE THIRD EDITION

LONDON

Printed for T. Cadell in the Strand, Walter Chubb
and T. Sawney, at the Royal Exchange

MDCCLXXV

U. S. Winter Session Congress

4

AN -

A N S W E R

TO THE

DECLARATION

OF THE

AMERICAN CONGRESS.

*Il popolo molte volte grida
Viva la sua morte, muoia la sua vita.*

*Num hanc referret gratiam? Num vitam ereptura sit illi, quæ
vitam ipsi dederit?*

THE THIRD EDITION.

L O N D O N :

Printed for T. CADELL in the Strand; J. WALTER, Charing-
cross; and T. SEWELL, near the Royal Exchange.

MDCCLXXVI.

INTRODUCTION



I have the honor to acknowledge the receipt of your letter of the 14th inst. in relation to the proposed publication of a new edition of the *British Museum Catalogue*. The Board of Trustees have considered the matter and have decided to publish a new edition of the *Catalogue* as soon as possible. The new edition will be published in two volumes, the first containing the *General Catalogue* and the second containing the *Particular Catalogue*. The *General Catalogue* will contain the names of the objects in the collection, and the *Particular Catalogue* will contain the descriptions of the objects. The new edition will be published in two volumes, the first containing the *General Catalogue* and the second containing the *Particular Catalogue*. The new edition will be published in two volumes, the first containing the *General Catalogue* and the second containing the *Particular Catalogue*. The new edition will be published in two volumes, the first containing the *General Catalogue* and the second containing the *Particular Catalogue*.

INTRODUCTION.

ILL would it become the *dignity* of an insulted Sovereign to descend to altercation with revolted subjects.—This would be to recognise that equality and independence, to which subjects, persisting in revolt, cannot fail to pretend.—Ill would it become the *policy* of an enlightened Sovereign to appeal to other states on matters relating to his own internal government.—This would be to recognise the right of other states to interfere in matters, from which all foreign interposition should for ever be precluded.

A Sovereign cannot enter into altercation with revolted subjects.

To these considerations it is, we must attribute the neglect with which the Declaration of the American Congress has been treated by the Government of Great Britain. Easy as it were, and fit as it may be, to refute the calumnies contained in that audacious paper, it could not be expected that his Majesty or his Ministers should condescend to give it any answer.

Hence the neglect shewn by Government to the Declaration of the Congress.

BUT that answer, which neither a sense of dignity, nor principles of policy, will allow the Sovereign to give, may yet be furnished by the zeal of any well-affected subject.

It may be answered by an individual.

FOR, after all, what are the Members of this mighty Congress? With whatever titles they may dignify

The Members of the Congress are

but simple
individuals.

their selves, in respect to us at least, they are but
simple individuals.

Were they
more, still
a simple in-
dividual
might an-
swer them.

WERE they more, yet, in this country, the measures even of Government are open to the examination of every subject. The right of *censuring* what they disapprove, the partisans of America have exercised, and still exercise, without scruple and without shame. They will not surely deny to me the right of defending what I approve. *Here* at least they will not be backward in acknowledging, that it is no mean advantage, which we derive from the happy form of our Constitution, that private individuals are competent to those tasks, which, under more jealous governments, can be executed only by officers commissioned for the purpose. *Here* at least they will allow that an insult offered to *every* man may be repelled by *any* man¹.

AND

Total de-
struction of
the liberty of
the press in
America

I say *here* they will acknowledge this. Not so in that unhappy country, over which these assertors of liberty have assumed jurisdiction. *Here*, so much as to think of doing any thing to impair the liberty of the press, is represented as the most atrocious tyranny. There, this liberty, has been utterly destroyed. And when was it destroyed? Did these men wait till they were already under the irritation of long continued and reciprocal hostilities? No. It was at a time of pretended *suffering*, and pretended *patience*. It was one of the first *preludes* to the execution of their design.

effected at
the begin-
ning of this
contest.

So sore were they, so conscious, from the very beginning, of their guilt, that in the midst of a people, groaning, as they would have it believed, under the pressure of injuries, then actually inflicting on them by the hands of unrelenting tyrants; they dared not leave the people at large to express their real feelings; they dared not leave the channels of conviction open. To their own party alone was reserved the privilege of expressing their sentiments. To them only the press was open. To their opponents; to those whom they but *suspected* of opposition, it was irrevocably shut. Whatever could be said to blacken the designs, misstate the words, misrepresent the actions, of the latter, was received with eagerness,

INTRODUCTION.

7

AND surely the Declaration of the *American Congress* is an insult offered to every one who bears the name of *Briton*. For in considering the present contest between Great Britain and America, it is a truth which deserves our peculiar attention, and which therefore cannot be too often repeated, nor too strongly inculcated, that the dispute is not, *nor never has it been*, between his *Majesty* and the *whole*, or any *part*, of his subjects. The dispute is *clearly between one part of his subjects and another*. The blow given by the Congress appears indeed to be levelled at his *Majesty*; but the wound was intended for *us*.

The Declaration of the Congress rather levelled against the British subjects than against his Majesty:—as the dispute is not between him and his subjects, but between his British and American subjects.

FOR let us separate in idea, so far as they *can* be separated, the interests of the King from those of his subjects: And let us, for the sake of argument, suppose—what I trust we shall hereafter most fully disprove,—that the present contest took its rise from a claim set up by parliament to the exercise of unconstitutional, unprecedented power over the Colonies: What in this case had his Majesty to gain by supporting the claim

The King had no separate interest to serve.

eagerness, and circulated with unremitting labour. Private confidence was violated; even *theft* was committed to get at letters and documents, which, obtained in so base a manner, were first garbled, and in that mutilated state, sent forth into the world as damning proofs of dark designs, which never had been formed. But not a syllable would they suffer to be made public that could tend to the exculpation of the objects of their fury. These were not to be endured if they attempted to justify, scarcely even if they attempted only to deny, the charges. Two men there were, and but two †, who dared to exercise, or so much as to avow the intention of exercising their employment with any degree of impartiality. What was their fate? The one saw his house broken open, his papers seized, his implements destroyed, or carried off; both were driven out of the country by actual violence, and the dread of threatened assassination.

† Rivington, and Mien.

INTRODUCTION.

of Parliament? How would he have advanced any *separate* interest by it. Was it by an accession of new power? Was it by an acquisition of new revenues? By one or other of these, if by *any* way, must he advance his own separate interests.

He could not have in view an accession of new power;

THERE are but two ways in which the King could acquire new power. Either he must assume to his self the exercise of those powers, which are now exercised by the other constituent branches of the sovereignty; or he must take off the restraints, under which he exercises the powers he already has. Far, I am sure, is it beyond the ken of my discernment, to discover how, by increasing the power of Parliament,—and by this supposition the power of Parliament was to be increased—his Majesty was to be enabled, or should have expected that he would be enabled, to seize into his own hands the powers which were exercised, or take off the restraints imposed, by that very Parliament.

nor an acquisition of new revenues,

WAS it an acquisition of new revenues, which his Majesty could propose to his self by the success of this contest? Surely not. Whether his British subjects continued to bear—as hitherto they *had* borne—almost the *whole* of the *common* burdens of the state: Or whether his American subjects contributed a part,—and a *small* part only was expected—of their proportion, would have made no alteration in the state of his revenues. Were the Americans to pay what was demanded—supposing always the Parliament alone to assess the proportion to be paid by the British and American subjects—he would not receive *more*:—Were they not to pay, he would not receive *less*.

IN

INTRODUCTION.

9

IN the event therefore of this contest—let us again repeat it—not *the separate interests of his Majesty, but those of his British subjects are involved.* If the Americans insult him by groundless complaints of his government, it is because he *asserted our rights*:—if they have dared to renounce all allegiance to his Crown, it is because he *determined not to give up our rights*^k.

His Majesty insulted for supporting our interests.

THE general charge brought against his Majesty, in this audacious paper, is, that “*the history of his reign is a history of repeated injuries and usurpations; all having in direct object the establishment of an absolute tyranny over*”—what they call—“*these states,*”—what we should call—his Majesty’s subjects in America.

The general charge brought against his Majesty.

IN support of this atrocious charge certain *maxims* are advanced; a *theory* of Government is established; and what the Authors of the Declaration call *Facts*, are submitted, as they tell us, to “*the candid world.*”

Proofs alleged in support of the charge.

THESE maxims, this theory, and these facts we are now about to examine. We shall begin by the *facts*. And to state them more clearly, the several charges are numbered; and divided into so many separate *Articles*. They are given in the order in which they stand in the Declaration; and each considered apart. But as there is a studied confusion

Method observed in the examination of the pretended proofs, by which this charge is supported.

^kThis has been expressly acknowledged by the Author of Common Sense. A book which has been in some sort adopted by the Congress; many of the most striking passages of the Declaration being borrowed from it. The charge there alleged against the King is—“*That he has undertaken in his own right, to support the Parliament in what he calls theirs.*” “It is by this combination”—adds the Author, and the Declaration adopts the phrase,—“*that the good people of America are grievously oppressed.*” [Introduction.]

in

in that arrangement, it was thought right to subjoin a short, but general, *Review* of the whole; in which the *maxims* and the *theory* are examined; and the grievances alleged are classed under their respective heads. And under certain heads the Congress would no doubt have classed them; if conscious of the futility of the charges, they had not fled to the mean resource of endeavouring to supply by *numbers*, what they wanted in weight; to *confuse* where they could not hope to *convince*.

The Congress has appealed to the passions of the British nation.

MUCH merit seems to have been assumed by the Authors of the Declaration on account of the "*attention*," which they profess to have shewn to *us*, whom for this last time, as they inform us, they style—"their British brethren:"—of the "*warnings*," they have given us:—of "their appeals to our native justice and magnanimity." And to do them justice, some art there was in the steps by which they endeavoured to make us their *dupes*; the *blind instruments* of procuring them that *independence*, at which they so long have aimed.—Their *first attacks* were cautious; the *Ministry* only were to blame: To rail at Ministers, is always popular. The King was deceived; the Parliament misled; the nation deluded.—In a little time they saw that Parliament was neither to be frightened, nor argued into a resignation of its just authority; and then Parliament came in for its share of culpability. It encroached on the rights of the American Assemblies. For they too, all at once, were become *Parliaments*: Still the King was their common Father; the nation, their brethren.—Yet a little while and they saw, that the King was not to be persuaded to listen to the deceitful voice of faction, in preference to the sober advice

INTRODUCTION.

32

advice of the great, constitutional Council of the nation; and then the King ceased to be their father: Still the nation were their brethren, their friends: So late even as the present year, when war was declared against the bulk of the nation, there remained yet *many* of them friends; entitled to "*applause and gratitude* for their *patriotism and benevolence*."—At last they perceived that those friends could not serve the turn expected of them; could no more misguide the nation, than deceive the King and Parliament: And now King, and Parliament, and nation, and patriots, and friends, are *all* involved in one common accusation; all pointed out as objects of one common odium. Still however they regret, and feelingly no doubt, that neither warnings, "nor appeals," nor "*conjurations*," have excited us to "*disavow*" what they stigmatise as "*unwarrantable jurisdiction*;" Acts of "*usurpation*"—to listen to what they call "*the voice of justice and consanguinity*." That is, in other words, they regret most heartily, that neither they, nor their emissaries, have been able to prevail with us to join in their rebellion. Their hopes peradventure had been sanguine; their disappointment therefore may be severe. They appealed to the passions: But they had forgotten, it should seem, that there is another appeal, to which, sooner or later, Britons do not fail to listen—*An appeal to good sense.*

To the good sense of my countrymen I venture to appeal. To that good sense with confidence do I submit the following Answer to the Declaration. Honest, I am sure, it is; I trust, not inadequate. Were the charges of "*unwarrantable jurisdiction*," of "*tyranny*," of "*usurpation*," so boldly urged a-

The Answer
is an appeal
to the good
sense of the
nation.

* See their Declaration of April 1st, 1776.

†

gainst

INTRODUCTION.

gainst our rulers, supported by proof, I should readily allow it to be the duty of every man to *unite in procuring redress to injured subjects*: But if it appear—and I trust it will appear—that the charges are unsupported, even by the shadow of a proof, let it in return, be allowed to be the duty of every man to *unite in reducing rebellious subjects* to a due obedience to law.

HAPPY should I be, could I suggest new motives to my fellow-subjects of Great Britain, for submitting with cheerfulness to the burdens which must be borne, for concurring with zeal in the measures which must be adopted, to effectuate this important object.

HAPPY should I be, could I contribute to efface any stain, which the false accusations of the rebellious Congress, may have thrown on the character of a Prince, so justly entitled to the love of his subjects, and the esteem of foreign nations.

HAPPY should I be, were it possible to induce this deluded people to listen to the voice of reason; to abandon a set of men who are making them *filits* to their own private ambition; to return to their former confidence in the King and his Parliament, and like the Romans, when they threw off the yoke of the Decemvirs:—“*Inde libertatis captare auram, unde servitutem timendo Rempublicam in eum statum perduxere.*”



ANSWER

A N S W E R
TO THE
DECLARATION
OF THE
AMERICAN CONGRESS.

A R T I C L E I.

ARTICLE
I.

HE has refused his assent to laws, the most wholesome and necessary for the public good.

A N S W E R.

Quod dedit principium adveniens?—From the very outset we may judge of the candor of the Congress.—Let any man, unacquainted with the constitution of America, but ask his self, what conclusion he would draw from the perusal of this article? Would he not naturally conclude such to be the constitution of America, that the King was of necessity a party in every Act of Colonial Legislation; that no law could
take

To give force to the Colonial laws in general, the assent of the King not necessary.

ARTICLE
I.

take *effect*, have any *operation*, till the royal assent was obtained? So far is this from being the case, that in every Colony, there is a complete Colonial Legislature on the spot. In the Royal Governments, this Legislature consists of his Majesty's Governor, the Council, and House of Assembly, or Representatives. By his commission under the Great Seal, the Governor is authorised to give the Royal Assent to Bills presented to him by the Council and Assembly. From the moment of their receiving that assent, these Bills become *laws*, have all the *force* and *effect* of laws. In this respect the Colonies have an advantage over Ireland. There a special commission is required to empower the Lord Lieutenant to give the Royal Assent to each specific Bill.

The King
retains the
power of
disallowing
their laws.

BUT this power of assenting to laws not yet framed, is of the most sacred nature; too high to be intrusted to the *discretion* of any subject without some controul. The King, therefore, retains the power of *disallowing* all laws to which the Governor may have assented, and thereby voiding the Act, if it be found to be inconsistent with the tenor of his instructions, the good of the particular province, or the welfare of the empire at large. In the Colony of Massachusetts's Bay, this disallowance must be signified within three years; in that of Pennsylvania, within six months from the time that the law is presented to the King in Council. In all the others without limitation of time.

Power exer-
cised by all
the King's
predecessors.

THIS power is exercised by the King in Council; it has been exercised by *all* his predecessors, from the first establishment of the Colonies; it is expressly reserved in *all* the Charters and Commissions which
constitute

constitute the Colonial Governments, three only excepted ^a. **ARTICLE I.**

To what then does this charge amount? Do they mean that his Majesty is cautious in giving his royal confirmation to Acts of the Colonial Assemblies? That he takes time to revise them? That he waits till experience has proved them useful, before he gives them permanence and stability? It was one of the ends for which this power was reserved to the Crown.

To be cautious in giving permanence to Colonial Laws;

Do they mean, that he has actually *disallowed* such Acts as to his judgment appeared unfit to be allowed? That is the other end for which the power of disallowance was vested in the Crown. Do they complain of the exercise of this power? They complain then, that they are not *independent*. *To have an uncontrolled power of legislation, is to be independent.*

and to *disallow* what appear not fit to be allowed, ends for which the power of disallowance was reserved to the Crown.

ARTICLE II.

ARTICLE II.

He has forbidden his Governor to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

^a Namely, Maryland, Connecticut, and Rhode-Island. Even in these Colonies *since* the Revolution, but *not* in the *present* reign, has this power been exercised.

ANSWER.

ARTICLE
II.

A N S W E R.

Two heads of complaint contained in this article; viz. 1st, the giving of instructions relating to a suspending clause; 2^{dly}, Neglect of laws passed with this clause. Falsehood implied in the first charge; viz. that in giving these instructions, his Majesty had assumed a new power, and introduced a new practice. This practice prevailed before the accession of the house of Hanover.

THIS article contains two distinct charges. The one, that his Majesty has instructed his Governors, not to pass certain laws, unless their operation be suspended till his Majesty's pleasure be known. The other, that to laws passed with this clause of suspension, his Majesty has utterly neglected to attend.

LIKE the preceding one, this article is couched in terms that mislead, that imply a falsehood. For would not any one conclude, that in giving such instructions, his Majesty had assumed a *new* power, *unexercised* by any of his predecessors; introduced a practice unknown in former reigns? To what purpose are these facts alleged? Is it not to characterise the government of his *present* Majesty, to distinguish *his* conduct from that of his predecessors; to establish the charge of *usurpation*?

NOTHING, however, can be farther from the truth. For upon enquiry it will appear, that this practice of instructing the Governor, not to give his assent to laws of a particular and extraordinary nature—and it is to *such only* that the case applies—until his Majesty could judge of the fitness and propriety of them, is so far from being novel, that it was established, and uniformly prevailed, before the accession, not of his present Majesty, but even of his Majesty's family, to the throne^b. So far then as this article is brought to establish the charge of usurpation in his present Majesty, it is absolutely false.

^b The practice was begun by Queen Anne in the year 1703, and has ever since been retained.

Is it meant to insinuate any objections to the measure itself? Let us shortly expose the nature of those instructions. And here it may be necessary to premise, that the Governor of every Colony has a negative in the passing of all laws; and that he is contrrollable in the exercise of that power, by such instructions as he shall from time to time receive from the King, under his signet and sign manual, or by order in his Privy Council. Those who know the constitution of the Colonies governed under immediate commission from his Majesty—and it is to those only that the case applies—know this to be the fact. This once admitted, it follows that there is a constitutional power in the Crown, of instructing the Governor to refuse his assent to such laws, as his Majesty judges unfit to be passed. By this test then let us examine the justice, or injustice, of these instructions.

ARTICLE
II.

Nature of
these in-
structions.

To what bills do these instructions apply? To such only as are of an extraordinary nature, affecting the trade and shipping of Great Britain; the prerogatives of the Crown, and the property of the subjects of the empire in general. Possible it was, that laws of this nature should be passed by the Colonial legislatures. It was more than possible. Such laws were passed. Frequent complaints of them occur in the Journals of both houses of Parliament.

And of the
bills, to
which they
apply.

UNDER these circumstances, what was to be done? It was not, I suppose, to be endured, that *local subordinate* legislatures should pass laws injurious to *all* the subjects of the empire. How then were they to be restrained from the assumption of a power, they were so prone to assume?

WOULD not the Crown have been justified, had it resorted to the most obvious expedient; to that which

The Crown
might di-
rect its
Governors
to negative

B

would

ARTICLE
II.

these bills
in the first
instance ;

would present itself at first sight? The expedient, I mean of directing the Governors, in the first instance, to refuse their assent to all extraordinary bills, affecting the trade, or navigation, or property, of its subjects in general; or its own just and constitutional prerogative. These points might, and perhaps not improperly, have been reserved to the sole cognisance of the supreme legislature of the whole empire. But Government, it should seem, apprehensive, on the one hand, that this might, in some cases, bear hard on the Colonies; and unwilling, on the other, to entrust to the sole judgment of a local Governor, what ought to be submitted to the judgment of the King, better able to see and to combine the interests of the empire at large, did not adopt this expedient.

or to withhold their assent till a copy of such bills be transmitted to the King, and returned with the royal approbation.

STILL easier must it have been to justify the Crown, had the Governors been instructed not to assent to any such extraordinary law, till a copy of the bill should have been transmitted, and the royal approbation obtained. But so anxious was the Crown to guard against every unnecessary inconvenience that might accrue to the Colonies, that even this expedient was not adopted without a particular qualification. Had the copy of the bills been transmitted, they must, when returned with the royal approbation, have waited for another assembly; have re-passed through all the forms of being read, debated, and approved, by the Assembly, the Council, and the Governor. Much time might have been lost, and the operation of the law, where the law was approved, suspended longer than was needful.

But the Crown empowers them to give their assent, provided a

To prevent this inconvenience it was, that the Governors were empowered to give their assent, even to these

these extraordinary bills, provided only that a clause were inserted, suspending the operation of the law till his Majesty's pleasure should be known.

It would not, I believe, be easy to fix upon any period, where it would have been proper to have recalled an instruction, first suggested by reasons which were then conclusive, and which have ever since been acquiring new force. The Colonies indeed have thought otherwise. Twice at least have they addressed the British House of Commons to intercede with the Crown for the very purpose of recalling this instruction. How were their petitions received? The Journals shall answer for us. In the year 1733, in the sixth of George II. "A memorial of the Counsel and "Representatives of the province of the Massachusetts "Bay was presented to the House and read; laying "before the house the difficulties and distresses they "laboured under, arising from a Royal Instruction, "given to the Governor of the said province, in relation to the issuing and disposing of the public "monies of the said province: And moving the House "to allow their agent to be heard by counsel upon "this affair: Representing also the difficulties they "were under from a Royal Instruction, given as "aforesaid, restraining the emission of bills of credit: "And concluding with a petition, that the House "would take their case into consideration and become "intercessors for them with his Majesty, That he "would be graciously pleased to *withdraw* the said "Instructions, as *contrary to their Charter*, and tending, "in their own nature, to distress if not ruin, "them^c."

ARTICLE II.

clause be inserted, suspending the operation till the King's pleasure be known.

At times of the Colonies to have this instruction recalled, in the year 1733.

^c See Comm. Journ. vol. xxii. p. 145.

ARTICLE
II.

Resolutions
of the then
House of
Commons
on this oc-
casion.

WHAT said the House to this petition? Did they think that his Majesty assumed an *unconstitutional*, or exercised an *improper*, power, in issuing these Instructions? Let us hear the resolutions of the House.

Resolved, "That the complaint, contained in this memorial and petition, is *frivolous* and *groundless*; "an high insult upon his Majesty's government, and "tending to shake off the *dependency* of the said Colony "upon this kingdom; *to which by Law and Right they "are and ought to be subject*^d."

Resolved, "That the said memorial and petition be "rejected."

As strong as
any passed in
the present
reign.

IN what instance, I would ask, during the present reign, has the British government expressed itself in terms more strong, or pointed? What act is there of the present reign, that asserts with greater energy, the dependence of the Colonies, or the supreme authority of Parliament?

Not adopted
hastily.

WERE these resolutions of the House extorted from them by surprise? or wrung from them by a sudden fit of resentment? or adopted hastily? Or was the subsequent conduct of the Colonial legislature such, as to call for a relaxation, in the strictness of these instructions?

Confirmed
by other re-
solutions in
the year
1740.

CONSULT the Journals of the Commons: See what passed on the 24th of April 1740, just seven years after the resolutions recited above. Read the following resolution:

Resolved, Nemine contradicente, "That an humble "address be presented to his Majesty, to return his "Majesty *thanks*, for the orders he hath already given, "and humbly to desire him, that he will be graciously

^d See Comm. Journ. vol. xxi, p. 145.

“ pleased to *require*, and *command*, the respective Governors of his Colonies, and Plantations, in America, “ punctually and effectually to observe his Majesty’s “ royal *Instructions*.” And what were the instructions, to which the Commons allude? These very Instructions; not to give assent to certain laws, *without a clause were inserted in such Act, declaring, that the same shall not take effect, until the said Act shall be approved by his Majesty.*

ARTICLE II.

To what objection then can a measure all at once become liable, to which his Majesty’s predecessors were advised, after the maturest deliberation, by their Privy Council; which they have been so repeatedly intreated never to abandon, never to relax, by the great Council of the empire?

The measure not liable to objection.

THE Congress, I suppose, did not imagine, that any force or poignancy was added to the charge, by characterising the laws, subject to the clause of suspension, by the titles of, “ *Laws wholesome and necessary to the public good;*” “ *of immediate and pressing importance*”—For what do these epithets prove?—Their own opinion of these laws—That, and nothing else. And who could entertain a moment’s doubt of their opinion of them? No doubt the laws, which, from a regard to the common interests of the whole empire, were made subject to the suspending clause, would appear *very wholesome and necessary; of immediate and impressing importance*, to the particular assemblies who passed them. And that for the very same reasons that to him, whose duty it is to watch over the interests of *all* his subjects, they might appear *unsalutary and destructive* of the public good.

The description of the laws given in this Article expresses only the opinion of the Congress.

AND this will suggest an unanswerable reply to the second charge alleged in the article before us—

Answer to the second charge, viz. neglect of laws passed with the clause of suspension.

^c See Comm. Journ. vol. xxiii. p. 528.

ARTICLE II. "That to laws, passed with this clause of suspension,
"his Majesty has utterly neglected to attend."

What is called neglect is only the withholding the royal assent.

FOR to what does this charge amount? To this and no more:—that these laws appearing to his Majesty to be repugnant, either to the particular interests of the one particular province in question, or to the general good of his whole empire, he *withheld* his assent.

Tantumount to the phrase of "Le Roy s'aviserà," used to a British parliament.

SHOULD a bill be presented by the Lords and Commons of Great Britain, to which his Majesty conceived it unfit to give his assent, what would be the conduct observed? He would not directly *refuse* his assent; he would use a milder language;—"Le Roy s'aviserà."—And what is it that the Congress so insolently styles—*neglect*? What but an act expressive of the same language?

Both heads of complaint therefore frivolous and groundless.

THAT his Majesty should exercise his judgment: That he should *not assent* to bills, which, in *his* judgment, are repugnant to the common good, are the very objects of the suspending clause. So far then no charge is brought against him.—That such assent should be *mildly withholden*, rather than sternly *refused*, could not be imputed as a crime, by any men, but the Members of an American Congress.

ARTICLE III.

ARTICLE III.

HE has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the rights of representation in the Legislature; a right inestimable to them, and formidable to tyrants only.

A N S W E R.

A N S W E R.

LET the sense of this article be precisely expressed ; strip it of the indecent reflections which clothe it, and to what does it amount ? To this only—That his Majesty has not seen fit to *confer* the privilege of sending Members to the Provincial Assemblies, on people forming, or meaning to form, certain communities in certain districts.

THE Members of the Congress indeed—whether through *inadvertence*, or *design*, have so worded this article, as to make it convey an idea, which yet they dared not openly express. They talk of *relinquishing* a right :—but they will not pretend it to have been a condition proposed, that the persons to be accommodated were to *give up* any right which they *then actually* enjoyed ; the condition was, only, that they should *not* be *invested* with a right, which they *did not* then enjoy ; if, as inhabitants of one district, or members of one community, they had already a right of sending a Representative, they were not called upon to *relinquish* that right : they were only told that, in becoming inhabitants of another district, members of another community, the right would not be conferred on them. Though, from the inaccuracy of the phrase, it may seem to be insinuated, it is not meant, that his Majesty intended to *diminish*, but only that he refused to *increase* the actual number of Representatives. And is this too a proof of usurpation ? Is the exercise of this power, in *general*, to be deemed unconstitutional ? In this *particular* instance, did the refusal, of which the Congress complains, originate with

So worded as to convey an idea the authors dared not express. No right to be *relinquished* ; but only a new right refused to be conferred.

His Majesty did not mean to *diminish*, he refused only to *increase* the number of Representatives. The exercise of this power in *general* not unconstitutional.

ARTICLE

III.

stitutional,
or in this
particular
instance.

new

The exercise
of the power
in general,
not uncon-
stitutional.
Power of
the King to
revive or
create parli-
amentary
Boroughs in
England.Power of
the King in
America.In the origi-
nal charters
territorial
representa-
tives not
provided for.

his present Majesty? or in making it, did he only per-
sist in a plan, for wise reasons, adopted by his royal
predecessor?

LET us first consider whether the exercise of this
power, in general, can be deemed unconstitutional.

IN England, it has been a matter of debate, whether
the King, by his *sole* authority, might, or might not,
create, or revive, parliamentary Boroughs^f. But it
never yet was pretended, that such Boroughs could
be either created, or revived, *without* his consent.
Whether they be created, or revived, as in the case of
Newark, by the *sole* act of the King: or, as in the cases
of the *Welsh counties*, of *Chester*, and of *Durham*, by the
concurrent act of the King, Lords, and Commons; in
either case, a *voluntary* act of the King is necessary;
in either case, therefore, the King may *refuse* to do
that act.

THUS stands the case in England. How stands it
in America?

IN the original charters granted to the first adven-
turers in America, the idea of territorial representatives
could hardly find a place. The first adventurers were
considered as a *trading* company; the first *settlers* as
servants acting under them^g. The Colonies were con-
sidered, not so much in the light of *provinces*, as of
factories. For provisions for *territorial* representatives,
it is not *here*, that we must look: we must go on to
succeeding charters, when the colonies began to be
considered as *provinces*.

^f See Douglas's history of the cases of controverted elections, vol. I.
p. 68, 69, 70. Note (c), and the authorities there cited.

^g See the examination of these charters in the remarks on the 13th
Parliament.

THE directions given in these charters, on this point, are various. In some, not the number only, of representatives to be chosen, is fixed; but the places too which are to have the right of choosing them^h. In others, these points appear to have been originally left to the direction of the general assembliesⁱ; that is, of the Governor, Council and Freeman. In most of the proprietary governments, to the discretion of the proprietor^k.

So far, however, is it from appearing, that the Crown meant to give up, in America, that power which it retained and exercised in England; the power, I mean, of preventing the number of representatives from being increased, or the privilege of sending representatives from being conferred *against*, or even *without* its consent, that the Crown has actually retained, and actually *exercised*, the yet more important power of increasing the number of representatives, of conferring the privilege of sending representatives by its own *sole* authority.

THE province of New-Hampshire affords us a remarkable proof. Towards the beginning of the year 1745 the Governor of New-Hampshire had issued a writ to the sheriff of the province, commanding him to make out precepts for the election of persons to serve in the General Assembly. Beside the towns, to whom precepts had usually been sent, the writ commanded, that precepts should likewise be sent to other

ARTICLE III.

Directions given on this head in succeeding charters.

The Crown never relinquished the power of adding, or refusing to add, to the number of representatives.

This power exercised in New-Hampshire in the late reign.

^h In the formation of government in the Jerseys on the surrender of the charter in the year 1702: In the Granades and other recent establishments.

ⁱ Massachusetts, Rhode Island, &c.

^k Pennsylvania and Maryland. But these charters have undergone many alterations.

townships,

ARTICLE
III.

townships, newly erected. The precepts were sent, and members returned. But the house of representatives *refused* to admit them. This refusal was reported to his Majesty; the report was examined with great deliberation: the opinion of the great law-officers, the present Lord Mansfield, and the late Sir Dudley Ryder, was taken; and the event was, that in the year 1748 the Governor was directed to *dissolve* that assembly, and when another should be called, to issue his Majesty's writ to the sheriff, commanding him to make out precepts to these new erected towns, for the election of members to sit in the assembly—And the rights of these members the Governor was commanded to *support*—Because—say the instructions—“ His Majesty may lawfully extend the privilege of sending representatives to such towns as his Majesty shall judge worthy thereof¹.” After many prorogations and alternate messages between the Governor and house of representatives, these members were *admitted*.

If the Crown has retained the power of adding to the number of representatives, *a fortiori* has it the power of withholding its consent to such addition. This latter power cannot be abused.

If therefore the Crown has retained the power of extending the privilege of sending representatives to such towns as his Majesty shall think worthy thereof; can any reason be assigned, why it should not retain the less important, less dangerous power, of preventing that privilege from being extended against, or without his consent?—I say less *dangerous*, because, though the former *may*, the latter *cannot*, be abused, to the purpose of acquiring unconstitutional powers. And could we, in defiance of the whole tenor of his Majesty's conduct, allow ourselves to suspect him of such a design, we should expect to find him profuse in the exercise of the power of ex-

¹ See Douglas's summary, vol. II. p. 35, 36, 73, 74, 75.

tending

tending this privilege, rather than tenacious of the exercise of the power of restraining it, within its present bounds.

ARTICLE
III.

THUS far as to the exercise of this power in *general*. As to the exercise of it in the *particular* instance before us, the refusal of which the Congress complains, did not, as they would have it understood, originate with his present Majesty: in making it, he only persisted in a plan, for wise reasons adopted by his royal predecessor.

In this particular instance the exercise of this power was a continuation only of a plan adopted in the last reign.

By an original defect in the charter granted by King William to the province of Massachusetts Bay, the Council was left more dependent on the House of Representatives than was consistent with the right balance of power. Not only were the members of it annually elected, they were even amoveable, by the House. In many cases the Council and House of Representatives sit and vote together. The suffrages are taken *viritem*; the number of the Council is limited to twenty-eight, that of the Representatives amounts to a hundred and fifty. It is therefore obvious, that the power of deciding in all these questions is solely in the Representatives. As if this were not enough, some designing men contrived to throw more weight into the popular scale, already preponderant, by erecting new, and by sub-dividing large and well regulated, into small and jangling, townships. On all of these was the power conferred of sending representatives; a power which they exercised, or declined, just as it served the ends of party. Already did the number of representatives in this single province exceed that in five of the most considerable provinces around it: already had many inconveniencies been felt by the in-

Reasons
why it was
adopted and
pursued.

trusion

**ARTICLE
III.**

The plan
was adopted
thirty years
ago.

And there-
fore did not
originate
with his
present Ma-
jesty, but
was retained
only; the
reasons of
adopting still
subsisting.

trusion of ignorant representatives, who were chosen, and came, only to serve a particular party; ere any step was taken to check so pernicious a practice.

AT last, about thirty years since, in the reign of his late Majesty, it was given in instructions to the Governor of Massachusetts Bay, not to consent to the incorporation of any new townships, unless in the Act of Incorporation it were to be expressed, that they should not, in virtue thereof, lay any claim to the right of sending representatives to the General Assembly^m.

THIS plan then did not originate with his present Majesty, he found it adopted by his royal grandfather. And here I may venture to appeal, not to my fellow-subjects in Great Britain, but to the Americans, but to the members of the Congress; I may venture to defy even them to point out to me the moment, when it would have been prudent in his Majesty to have receded from it. Is it in times of popular tumults, that a wise government would diminish the checks on the excess or abuse of popular power?

^m For the facts here alleged, see proofs in Douglas's Summary, vol. I. p. 215, &c. 376, &c. 489, &c.

ARTICLE

ARTICLE IV.

ARTICLE
IV.

HE has called together legislative bodies at places *unusual, uncomfortable*, and distant from the depository of their public records, for the sole purpose of fatiguing them into a compliance with his measures.

ANSWER.

THERE is something so truly ridiculous in this Article, that it is hardly possible to answer it with any becoming gravity. At the first blush it looks as if inserted by an enemy, as if intended to throw an air of ridicule on the declaration in general. Among reasons to justify a national revolt to find it gravely alleged, that the members of an assembly happened, once upon a time, to be straitened in their apartments, and compelled to sit on strange seats, and to sleep in strange beds—is, I believe, unexampled in the history of mankind. Sickly and feeble must be the constitution of that patriotism, which these hardships—dreadful as they are—could fatigue into a compliance with unpatriotic measures.

LET us however state the fact to which the charge alludes.

The fact
stated.

TOWARDS the latter end of the year 1769, his Majesty received information from the Governor of Massachusetts

Disorders in
Boston.

ARTICLE
IV.Troops sta-
tioned there.These were
the reasons
for not hold-
ing the as-
sembly at
Boston,and assigned
in the in-
structions.

chuset's Bay, of frequent riots excited, and outrages committed in the town of Boston. His Majesty was informed,—and the public acts and proceedings of the magistrates and council of the town confirm the truth of the information,—that these disorders were not to be attributed solely to the disposition of the lower class of the people, but that they were countenanced by those to whom the administration of government was, by the constitution, entrusted. The council refused to advise the Governor; the justices to co-operate with him in the suppression of these disorders. It should be remarked too, that it was not at this particular moment that these disorders *commenced*; they were of long continuance. Already had his Majesty been under the necessity of stationing troops in the town, to preserve the lives of his Governor, and such of his civil officers as recognised the authority of the King and Parliament.

BOTH these circumstances might well be considered as objections to the holding of the general court at Boston. By men who were ready to carp at any thing, the presence of the troops might be *represented* at least, if not really *considered*, as a restraint upon the freedom of debate; by men who wished conscientiously to discharge their duty, the dread of an insulting mob, and the certainty of being unprotected against it, were *real* restraints.

FOR these reasons, as well—say the instructions to the Governor—“to obviate any objection on account of the troops, as to shew a proper resentment of the behaviour of the inhabitants of Boston,”—it was thought expedient that the Governor should meet the general court at Cambridge.

AN

AN addition there was to these instructions, which **ARTICLE IV.**
now, that it is the object of the Congress to insult his **—**
Majesty, they think proper to suppress; but upon The instructions, how-
 which *then*, when it was their object to blacken the ever, discre-
 Governor, they insisted with vehemence.—It was still tionary.
 left to the Governor's direction, *not* to meet the assem-
 bly at Cambridge, "*if he should think*"—so say the in-
 structions—" *there were reasons to the contrary of such a*
 "*nature as to outweigh these considerations **."

SEE then to what this mighty charge amounts—His Futility of
 Majesty desirous, on the one hand, that the presence the charge,
 of his troops should not *seem* to restrain; and, on the
 other, that the outrages of an ungovernable mob should
 not *actually* restrain, the freedom of debate, instructed
 his Governor to meet the general court at a place where
 both these objections would cease.

ARTICLE V.

ARTICLE
V.

HE has dissolved Representatives Houses
 repeatedly, for opposing with manly firm-
 ness his invasions on the rights of the
 people.

ANSWER.

To this article little can be said. The charge con- This charge
 tained in it amounts to nothing. It states only, that amounts to
 nothing.

* See the Boston Gazette of June 12, 1775.

his

ARTICLE
V.

His Majesty cannot *prolong* beyond a certain period, but may at any time suspend the existence of the representative bodies.

To the power itself then they dare not object; the objection to the exercise of it in this particular instance amounts only to this, that his Majesty and the representatives were of different opinions.

Cause assigned for the dissolution of the provincial assemblies.

his Majesty has exercised a power, which has always been considered as inherent in the crown.

IN England, as well as in America, the laws indeed have guarded, with anxious concern, against the power of the Crown, to *prolong* beyond certain periods, the existence of the same representative bodies; the power of shortening their existence was never yet disputed. We have already quoted *one* instance of its being exercised in America, by his *late* Majesty; more might be adduced. Once, and but once, in England, was it thought expedient to rob the Crown of this power. The attempt was made; it succeeded; and—mark the consequence—the *constitution perished*.

To the exercise of the power itself then—the power of dissolving the Houses of Representatives, whenever his Majesty shall see fit—they dare not object. To the particular instances, in which his *present* Majesty has exercised that power, what is their objection? It amounts only to this, that certain Acts appeared in different points of view to his Majesty and the Houses of Representatives. This power was exercised—says the Congress—“because the representatives opposed, with *manly firmness*, his Majesty’s *invasions* on the rights *of the people*.” Could they say less? Could they acknowledge, that what they stigmatize as *invasions on the rights of the people of America*, were indeed only acts done in defence of the just rights of the Parliament and people of Great Britain?

BUT which, after all, is true? Were the acts which the Assemblies opposed, at it is boasted, “with such *manly firmness*,” and for their opposition to which they were dissolved, *invasions on the rights* of the people; or were they only done in maintenance of the rights of the

the King and Parliament? Was not the opposition of the Assemblies to these Acts, of such a nature, and conducted in such a manner, as not only to justify, but even compel, a dissolution? To answer these questions, it will be necessary to examine and state the causes for which they were dissolved.

ARTICLE
V.

THE first instance of the exercise of this power in the present reign, among the revolted Colonies, was, I think, in the year 1768, in the Colony of Massachusetts. The occasion was this: Offence, it seems, had been taken at an Act of the British parliament, imposing certain duties on certain goods imported into America; the produce of which duties was appropriated to the support of the Government of America. The leading men at Boston thought it not enough, as private individuals, to enter into engagements, highly prejudicial to the commerce of Great Britain, and tending to defeat the provisions of the Act which had offended them: But they determined, if possible, to draw the other Colonies into the same engagement! And to give a degree of dignity, as well as to insure success, to the measure, the invitation was to be made, not from individual to individual, but by circular letters, written in the name, and signed by the Speaker, of the Assembly of Massachusetts; and addressed to the Speaker and Assemblies of all the old Colonies on the Continent. In these letters it was declared,—“ That the rights of the Colonies had been *infringed* by the King and Parliament—That the Acts of the British Parliament were inequitable—That *worse* was yet to be expected.” The other Colonies were invited to *combine* (the Congress will for once allow me the use of its own favourite term)—in rendering the

C

Act

Of the Assembly of Massachusetts in 1768.

ARTICLE
V.

Act ineffectual, and in bringing about its repeal. Unconstitutional, illegal, unjustifiable, as such a step must appear; subversive of all government as was the *combination*, which this letter advised; destructive as it was of that subordination, which had hitherto connected the Colonies with Great Britain; of that peace and good order, which are the cement of all society; his Majesty was unwilling to proceed with any degree of severity against the authors of the letter. A door was opened for an honourable retreat. His Majesty was willing to consider the resolution, which gave birth to the circular letter, as an act, which had been obtained by *surprise*, at the *end* of a session, in a *thin* house. He therefore contented himself, with ordering his Governor, to require the succeeding Assembly to rescind the resolution; and to declare its disapprobation of, and dissent to, so rash and hasty a proceeding. By a compliance with this requisition—as some among the Americans, at that time, honestly confessed^d—they might have retrieved this hasty step, “with a full saving of all their rights and privileges.” So far from complying with it; so far from adopting the expedient, so kindly held out to them, they rejected it with scorn: They boasted, that the resolution was made by a great majority of a full session: They went farther, they adopted the measure, they maintained its legality. In vain did the Governor urge them to a compliance with his Majesty’s requisition; in vain did he forewarn them, that a dissolution must be the consequence of their obstinate refusal. They persisted; they would not retreat, they would not rescind: Nay, as if their conduct were free, not only from the taint

^d In a letter from the town of Hatfield to the town of Boston, Sept. 22, 1768.

of guilt, but even from the breath of suspicion, they determined, that it must have been *misrepresented*; that this could have been done by the Governor alone; and therefore, instead of rescinding the resolution, they were preparing a petition for the removal of the Governor, who had dared to signify his Majesty's pleasure, that the resolution should be rescinded^e.—Then indeed—when *all* matters of a public and private nature laying before the general Court, were now *fully considered*, and *decided*; when all then proposed to be done, was done;—save only this new insult which they meant to offer to the Crown;—this factious Assembly was *dissolved*.

ARTICLE
V.

THE assembly of Massachusets was again dissolved in the year 1774, for assuming to itself the right, peculiar to the British House of Commons, of impeaching, and for attributing to the Council, the right, peculiar to the British House of Lords, of receiving and trying impeachments. Had this pretension been allowed, what would have been the consequence? The Council would soon have erected itself into a Court of Appeal in dernier resort. The judicial power, denied by an express Act of the British Parliament^f to the House of Lords in Ireland, would have been assumed by the Council of every little province in America. Was this too an invasion of the rights of the people of America? Or was it only the maintaining of the rights of the British Parliament?

Of the Assembly of
Massachusets in
1774.

^e Their next step, perhaps, would have been, a petition that his Majesty would be *most graciously* pleased to *remove his self from being their King*, for having dared to exercise a power inherent in his Crown.—And his *tyrannical* refusal would have lengthened the *alarming* articles of their Declaration.

^f 6 Geo. cap. 5.

ARTICLE
V.

Of the Assembly of
Virginia in
the same
year 1774.

IN the same year, the Assembly of Virginia was dissolved for practices little short of treason; for voting the Acts of the British Parliament injurious to the rights of America; for appointing days of fast and humiliation, to implore the *divine grace* to give them one *heart* and one *mind*, in resisting those Acts; for forming illegal combinations to support the Bostonians in their resistance.

Of another
Assembly of
Massachusetts in the
same year
1774.

IN the same year, yet another Assembly of Massachusetts was dissolved, for sending Committees to the Congress; for taking on itself the whole power of Governor, Council, and Assemblies; for levying *taxes* by its *own sole* authority; for appropriating, by its own sole authority, the taxes to the purpose of furnishing salaries to men deputed to assist at an Assembly unknown to the law.

Necessity of
these dissolu-
tions.

IN the Act of the British Parliament, which gave rise to these proceedings, there was no invasion of the rights of the people. Nothing was done by it, but what Parliament had been accustomed to do. In the mode of resisting it, there was a manifest invasion of the rights of the Crown, of the Parliament, and even of the constituent branches of their own legislatures. Under these circumstances, what was his Majesty to do? There have been reigns, and those not the least popular in our history, when the offensive votes would have been taken off the file; when the Assembly would not have been required, but the Governor would have been commanded, to rescind them. His Majesty pursued a milder measure. The offence had been unprovoked; he proposed, that the return to duty should be voluntary: They rejected the offer; they would not return. What could he do less than dissolve

dissolve them ? Either the British Parliament must repeal its Acts, or their Assemblies must rescind their resolution. The constitutional authority of the one, could not stand with the *assumed* authority of the others ; they refused to rescind ; his Majesty was reduced to the alternative of dissolving the Parliament of Britain, or the Assemblies of America. And indeed it deserves remark, that the partizans of America in England, at that time, did not cease to besiege the throne with addresses, and remonstrances, and demands, couched under the name of petitions, to dissolve the British Parliament, for having maintained the rights of Great Britain ; whilst they imputed it as a crime to have dissolved American Assemblies, for having invaded these rights. Surely these men think, that the Constitution has vested the power of dissolving in the hands of the Crown, on purpose that it may be exercised, not in *conformity*—but in direct *contradiction*—to the *judgment* of the Crown.

ARTICLE
V.

ARTICLE VI.

ARTICLE
VI.

He has refused for a long time, after such dissolutions, to cause others to be elected ; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise ; the

C 3

state

ARTICLE
VI.

state remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

A N S W E R.

This was the exercise of a constitutional power.

IN some Colonies, the time of summoning the General Courts is left to the discretion of the King in council; in others, there are stated periods, at the expiration of which, they are, by law, to be summoned. As to the first, in exercising his own judgment, with the advice of the Privy Council, His Majesty has done only what the Constitution supposes him to do. As to the latter, it will be sufficient to ask, whether his Majesty deferred the summons, beyond the periods fixed by the constitution? That he did, is what the Congress dares not *assert*. Where then is the charge? His Majesty exercised his discretion, as to the time of summoning the General Courts, in the manner, and for the ends, prescribed by the Constitution.

The delay in summoning new, necessary consequence of having dissolved former, assemblies.

FOR it should be remembered, that this delay in assembling other, was the necessary consequence of having dissolved the former, Assemblies.—Why had they been dissolved? For bold encroachments on the rights of the Parliament and people of Great Britain. Would it have been consistent; would it have been prudent, to have issued writs for the summoning of a new Assembly, whilst the people and their Representatives were inflamed with the notion, that, in encroaching on the rights of Britain, they were only defending their own? Was it not more consistent,

more prudent, to give time for this madness to subside? To leave the electors at leisure to reflect on the probable tendency of the conduct of their Representatives?

THE consequences drawn by the Congress from this charge, are too singular to pass unnoticed. For, in the first place, these great statesmen, and acute legislators, have discovered, that by this refusal of his Majesty to call a new Court, before the Constitution required it to be called, “ *The legislative powers, incapable of annihilation, have returned to the people at large for their exercise.*”

THIS maxim, I presume, is general: As good on one side of the Atlantic, as on the other. Hence then we learn, that, in this country, during the annual prorogations, and between the septennial dissolution of one, and the election of another, Parliament, the legislative powers return to the good people of England. They may repeal all the laws enacted by Parliament—impose new *tests*, create new *offences*, invent new punishments. A discovery which will not fail to astonish, as well my Lords the Judges, as the writers on our law.

IN the next place, they have discovered, that, during this interval, “ the state”—meaning the respective Colonies—“ remained exposed to all the dangers of invasion from without, and convulsions within.”

As to the danger of *invasion from without*, how the dissolution of their General Courts should invite, or their being assembled, should repel it, is more than I am able to conceive.—*Non tali auxilio—Non his*

ARTICLE
VI.

Ridiculous consequences drawn from this charge.

I.
That the legislative powers return to the people at large.

It would follow, that during the recess of Parliament the people might repeal existing laws and make new ones.

II.
The Colonies exposed to invasions from without, and convulsions within.

Secured by Great Britain from invasions.

ARTICLE
VI.

defensoribus—must this ungrateful country secure itself from foreign invasion. Those invasions have been repelled, have been for ever *prevented*, by the courage of that people, by lavishing the treasures and the blood of that nation, by the armies, the victories, and the treaties, of that Prince, whom they now so ungratefully revile.

Convulsions
within ex-
cited, che-
rished, le-
galised,
sanctified by
the Assem-
bly.

As to the danger of *convulsions within*, so far were their Assemblies from repelling, that it was their factious resolves which excited, cherished—in the eyes of a deluded multitude, more than legalised—almost sanctified them.

ARTICLE
VII.

ARTICLE VII.

HE has endeavoured to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new appropriations of lands.

A N S W E R.

This charge
is not possible,
nor credible.

To prevent the population of a kingdom, is to diminish the number of subjects. That a King, who is not mad, should wish, and, in consequence of that wish,

wish, should deliberately endeavour, to diminish the number of his subjects, whilst they *continue* to be his subjects, is an imputation, which nothing, but the extreme malice of it, could save from being ridiculous. Not only the imputation *is not* true, but it is *impossible* it *should* be true; but it is impossible, that any man of common discernment should *believe* it to be true of *any* King. Of all Kings, it cannot be true of *such* a King as it is the design of this declaration to represent his present Majesty to be. That a King, through an inordinate thirst of *power*, should study to diminish the number of his *subjects*, is just as probable, as that, through an inordinate thirst of *money*, he should study to diminish the sum of his *revenue*.

ARTICLE
VII.

THE proofs, alleged in support of this charge, are as false and futile, as the charge itself is incredible.

The proofs
alleged in
support of
the charge
false and
futile.

HIS Majesty, they allege, “ has obstructed the laws for the naturalization of foreigners; refused to pass others to encourage their migrations thither; and raised the conditions of new appropriations of lands.”

The ob-
structing the
laws for na-
turalizing
foreigners.

“ His Majesty has obstructed the laws for the naturalization of foreigners.”—By *the laws*, are meant the laws of the respective *provinces*. How comes it, that local, subordinate legislatures should assume the power of making laws for naturalization? Of what country are persons thus naturalized to be reputed natural-born subjects? Is it of the whole British Empire at large? And is the jurisdiction of these local legislatures so extensive! The idea is too ridiculous to be admitted. Is it only of the particular province,
where

Acts for na-
turalization
not compe-
tent to local
and subordi-
nate legisla-
tures.

ARTICLE
VII.

where the law should be passed? How would this encourage the migration of foreigners? What advantage would it be to a foreigner to be a denizen on this side of a river, and an alien on that? So far from an advantage, it would serve only as a trap to ensnare him.

To have
consented to
these Pro-
vincial Laws
the King
must have
suspended
Acts of Par-
liament.

It is curious, mean time, to observe the inconsequence of these men. At one moment they insult his Majesty because he exercises his undoubted prerogative, of disallowing, or refusing to pass, such of their bills as he disapproves. At another, they impute it to him as a crime, that he will not, by his *sole* authority, suspend, or repeal, *Acts of the British Parliament*. To have consented to the Provincial Laws for naturalization, and for encouraging the migration of foreigners thither, he must have suspended, or repealed, Acts of the British Parliament. The Act⁹ for regulating abuses in the trade of the Plantations, lays particular restrictions on foreigners. And who among the emigrants shall cease to be foreigners, and on what terms, the Parliament *has not left it to the King; it has taken on itself, to determine*^r.

p A singular instance of this is on record. A foreigner was naturalized by the Assembly of New-York. Conceiving his self to be a natural-born subject, within the meaning of the act of 12 Car. II. he bought a vessel, and went on a trading voyage. The vessel was seized, and confiscated. The man appealed to the Privy Council, where the sentence of the Admiralty Court was affirmed. The Privy Council being clearly of opinion, that no act of a local subordinate legislature could vacate, or extend the provisions of an act of Parliament.

q 7, 8 Will. cap. 22.

r By 13 Geo. II. cap. 7.—20 Geo. II. cap. 44.—22 Geo. II. cap. 45.—29 Geo. II. cap. 5.—2 Geo. III. cap. 25. By this last Act, passed under the reign of his present Majesty, who is insulted for *obstructing the naturalization and migration of foreigners*, the privilege of natural-born subjects is granted to those who shall serve, though it be only *two* years, in the *American wars*.

AND

AND is it a grievance too, that his Majesty has raised the purchase and quit-rents of the ungranted lands in America? It has always been conceived, that these lands are as much the property of the King, as the private estate of an individual is the property of that individual. If the value of money *decrease*, and the value of land *increase*, is it unjust to raise the purchase or the rent? Does the augmentation of the purchase, or the rent of the royal lands, bear any proportion to the increase of their value? Does it even bear any proportion to the augmentation in the purchase and the quit-rents of the proprietary lands? The proprietors of Pennsylvania and Maryland set the example, yet against them no complaint, no murmur has been heard.

ARTICLE
VII.

In raising the purchase and rents of lands, his Majesty has done nothing unjust, only followed the example of the proprietors.

ARTICLE

* In Pennsylvania lands were originally granted without paying any, or at most only a trifling, purchase-money: now for every hundred acres of uncultivated land, *five pounds sterling* are paid as the purchase-money, and one penny sterling as the annual quit-rent.

Comparison between the terms of granting Proprietary and Crown lands.

IN Maryland, for every hundred acres of uncultivated land, the purchase-money is risen, since the year 1738, from *forty shillings* to *five pounds sterling*; and the annual quit-rent from *two* to *four shillings sterling*: subject moreover to a *fine of one year's rent* on every alienation.

IN both these provinces fees are paid by the grantees through every stage of the process.

THE Crown used to receive *four shillings proclamation money*, equal to *three shillings sterling*, as an annual quit-rent for every hundred acres of uncultivated land. No purchase-money was given, but the *charges of surveying were paid by the grantees*.

Now for the *amazing rise* in these conditions, so feelingly regretted by the Congress. The Crown at present directs the Surveyor-general to set out allotments of lands, as persons appear desirous of making new settlements. The lands thus allotted are put up to public auction at *six pence sterling per acre*. If no person bid more, they are sold at that price, with-

out

ARTICLE
VIII.

ARTICLE VIII,

HE has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

A N S W E R.

The regulation of the judicial powers one of the most difficult points in the whole science of government.

THERE is not, perhaps, in the whole science of government, a point more difficult than the regulation of the judicial power. There is nothing upon which the peace of individuals more immediately depends; nor can any material change be made in the regulation of this power, without, in the event, affecting the whole constitution. It is therefore, of all others, the point in which a wise government will be most fearful of admitting alterations.

His Majesty therefore ought to be delicate in admitting alterations in this point.

IT will not therefore appear strange, that his Majesty should have been very delicate on this point. That he should have been very averse to giving his assent to laws, whose object was to establish new judicial powers, or to admit any new regulation in those already established.

Judicial powers established in all the Colonies on the model of the same power in England,

FOR the reader is not to imagine, that there exists a single colony, where judicial powers, where courts of out any other charge whatever. The charges of surveying are *no longer paid by the grantee*, but by the King out of the funds arising from the sale.

Terrible no doubt is the check thus given to population!

justice,

justice are not established. They are established in *all*. **ARTICLE VIII.**
 In all those who have sent deputies to the American Congress, these powers are regulated, as near as may be, on the model of the judicial power in England.

SOME of the Colonies wished to introduce innovations, to establish certain courts of justice upon principles which seemed to his Majesty to clash with the general principles of the Constitution. To the establishment of these courts the King refused his assent.

Some of the Colonies wanted to introduce innovations to which the King refused his assent.

"*NOLUMUS leges Angliæ mutari*," was thought to be expressive of the height of patriotism in the mouths of the *barons* of old. It was reserved to the American Congress to discover, that an unshaken attachment to the established principles of a free constitution is a proof of tyranny and usurpation in a *King*.

This attachment to the constitution urged as a proof of tyranny.

ARTICLE IX.

HE has made judges dependent on his will alone for the tenure of their offices, and the amount and payment of their salaries.

ARTICLE IX.

A N S W E R.

If, with their allegiance, the Members of the Congress had not thrown off all sense of shame, this article would never have found a place in the list of their grievances.

The Congress must have thrown off all shame before this article was inserted,

ARTICLE
IX.

The Judges
always de-
pendent on
the King
for the te-
nure of their
offices.

THAT the Judges should depend upon the King for "*the tenure of their offices,*" is no innovation. From the first establishment of the Colonies to the present hour it has been so. The commissions of the Judges have always been *during the good pleasure of the King*. At such a distance from the seat of government no danger can arise from it. It might perhaps be less consistent with the spirit of the Constitution, that their commissions should be for life, than during the pleasure of the King.

That they
are depen-
dent on the
King for
their salaries
reflects
shame on
the Colo-
nies.

The Colo-
nies always
refused to
grant per-
manent sa-
laries to the
Judges.

THAT they are become dependent on the King "*for the amount and payment of their salaries,*" reflects the highest shame upon the Colonies—Was it a voluntary act of the King? No. The regulation was forced upon him.

EVERY Governor is instructed to demand a *permanent* salary for his self and the Judges. The demand is *constantly made, and has been as constantly refused*. It was the policy of the colonies to keep the Judges dependent on the deputies of the people for a temporary, wretched, and arbitrary support^u.

Effects of
this refusal
on the ad-
ministration
of justice.

WAS it reasonable to expect, that Judges, under such circumstances, should firmly maintain the rights of the Crown, or enforce the laws of trade, or in any case faithfully discharge their duty, in opposition to the overbearing spirit of a democracy, or even to the passions and prejudices of the multitude? Could it even be expected, that the rights of individuals would be better protected than the rights of Government? Must not all redress of wrongs done by a more, to a less,

^u See Administration of the Colonies, vol. i. p. 3.

powerful subject, be desperate and unattainable? It might well be expected to happen, and accordingly we learn from the best authority, that it actually did happen,—“ That all business of any moment was carried by parties and factions, and that those of great power and interest in the country did easily overbear others in their own causes, or in such wherein they were interested, either by relation of kindred, tenure, service, dependence, or application *.”

ARTICLE
IX.

IN this situation what was his Majesty to do? Conquer the obstinacy of the Colonies on this head he could not. In vain he exhorted them to make the Judges independent: what they sullenly refused, as far as he could do, his Majesty did: he appointed them salaries, as fixed and certain as any act of his alone could make them. The concurrence of Parliament was necessary to give them *permanence*.

This refusal obliged his Majesty to grant them salaries.

MEANWHILE the dependence of the Judges on the Crown is infinitely less entire, and less likely to be abused, than that dependence on the people we have above described. And surely, were it possible his Majesty could *wish*, yet could he never *hope*, to render any part of the magistracy half so dependent on his self, as the rebellious party has, from the beginning of these disorders, rendered the whole of it dependent upon them. From his Majesty's displeasure, however just, all they could have to fear, would be the loss of their offices and salaries. From the rebels, by adhering to their duty, their fortunes and their lives were alike in jeopardy.

Their dependence on the Crown is less entire, less likely to be abused, than their former dependence on the people, especially since the rebellion.

* Quoted from Lord Chief Justice Hale, and applied to the Colonies by the Author of “ the Administration of the Colonies,” vol. i. p. 110.

ARTICLE

ARTICLE

ARTICLE X.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

ANSWER.

Offices created during the present reign.

To articles, thus generally worded, it is not always easy to give an answer. In the instance before us, however, we are under no difficulty. The "*multitude of new offices created, and the swarms of officers sent over to America,*" under the *present* reign, consist, first, in a Board of Customs; and secondly, in additional Courts of Admiralty.

Board of Customs established for the convenience of trade.

As to the Board of Customs, the reasons of that establishment are expressed in the preamble of the Act. There it is we learn, that the officers, who had been appointed in virtue of an Act of Charles the Second, were obliged to apply to the Commissioners in *England* for special instructions in particular cases; that hence all who were concerned in the commerce of the Colonies, were *delayed and obstructed* in their commercial transactions; as a *relief* therefore to merchants and traders, his Majesty is empowered to appoint Commissioners of Customs, with the *same* powers as are exercised by the Commissioners of the Customs in *England*.

To cite the reasons of establishing this Board, is at once not only to justify the establishment, but to prove its utility to the very men who complain of it.

BUT

But "*the swarms of officers*" required to carry the Act into execution "*eat up the subsistence of the people.*" With what indignation must this charge be received, when it is known, that to these officers, *no salary was given by the Americans; no salary demanded from them?* When it is known, that by no less than three several Acts of Parliament, it is provided, that these officers shall take only the *accustomed fees*? The payments to be made depend now, as they ever have done, on the *greater or less quantity of exports and imports*; not on the *smaller or larger number of officers* appointed to receive the duties.

ARTICLE
X.

No salaries
demanded
for the offi-
cers.

THE Courts of Admiralty were multiplied for the same benevolent purpose, of giving *ease to the Americans* their selves. That the defendants might not be forced, in the first instance, to apply to a general court, held perhaps at an inconvenient distance; nor in the dernier resort, to appeal to the Courts in England. Before they complained "*that the means of justice were so remote, as to be scarcely attainable.*" Now they complain that the means of justice are brought to their own doors.

Additional
Courts of
Admiralty
appointed
for the con-
venience of
the Ame-
ricans.

It was said of some one, that he had a most *convenient* memory: of his credits no man so retentive; of his debts no man so forgetful. This *convenient* memory seems to have been inherited by the Members of the Congress. Is there a circumstance, which can by any means be misrepresented so as to appear to be a proof of innovation, or oppression? it is sure to be seized. Is there a circumstance which no art can tor-

Beneficial
circumstan-
ces in the
appointment
of these
Courts, sup-
pressed by
the Congress.

7 5 Geo. III. c. 45.—10 Geo. III. c. 37.—12 Geo. III. c. 56.

2 In a petition from New York, recited in "*the Administration of the Colonies,*" vol. i. p. 266.

ARTICLE
X.

ture so as to make it appear to be other than beneficial? it is sure to escape them. They forgot to tell us, that no new power is given to these officers; that the Board of Customs continues to exercise only the same power, that the English Commissioners had always exercised; that the new Courts of Admiralty continue to exercise only the same powers, as had been always attributed to the antient Courts. They forgot to tell us, that the salaries of the officers of the four new Courts of Admiralty are *fixed*; can never vary: that these salaries arise, in the first place, from the produce of the forfeitures; that if any deficiency remain, that deficiency is made good out of the produce of the old naval stores: they forgot to tell us, that this is a *fund purely British*: they forgot to point out to us how beneficial an improvement was hereby made on the institution of the ancient Courts of Admiralty. They forgot to tell us, that the salaries of the officers of the ancient Courts *were not limited*: that they arose *entirely* from a *certain rate* assessed upon the *forfeitures*; were the forfeitures many and considerable? the salaries rose;—were they few and inconsiderable? the salaries fell.—See now the mighty injury done to the Colonies: Justice is brought home to them: the means of acquiring it are at hand, and cheap. The temptations to injustice removed from the officers. To the salary of the officers no *honest* citizen in America is to contribute. Of one class of people, and of *one only*, can they devour the subsistence. Will the Americans confess, that the class of *smugglers* is so numerous in that country, as to entitle them to be called—by way of eminence—the *people*?

ARTICLE

ARTICLE XI.

ARTICLE
XI.

HE has kept among us in times of peace standing armies, without the consent of our Legislatures.

ANSWER.

To this article, a fuller and more complete answer cannot perhaps be given, than what has already been furnished by one of the warmest advocates of the Colonists^a.

It is the undoubted prerogative of the King to station his troops where his Majesty sees fit.

IN a Bill brought into the House of Lords by this distinguished personage, it was thought necessary to animadvert upon this pretension of the Americans; viz. "that the keeping a standing army, within any of the Colonies, in the time of peace, without *consent of the respective Provincial Assembly there, is against law.*" High as be the esteem which the framer of this bill professes to entertain for America; yet, too sensible is he, not to think his self bound to guard against the pretence so arrogantly set up by these local, subordinate legislatures, of dictating to his Majesty in what parts of his empire he may or may not station his troops. Against this unconstitutional claim, one article of the bill was directly levelled. It is there asserted—"that the declaration of right at the ever glorious Revolution," namely, "that the raising and keeping a standing army within the kingdom, in time of peace, unless it be by consent of Parliament, is against law," "had reference only to the

^a In the Bill brought into the House of Lords in the first session of the present Parliament, by Lord Chatham.

ARTICLE
XI.

“ consent of the *Parliament of Great Britain* :” It is there asserted, that “ the legal, constitutional, and hitherto unquestioned, prerogative of the Crown, to send any part of such army, so lawfully kept, to any of the British dominions and possessions, whether in America, or elsewhere, as his Majesty, in the due care of his subjects, may judge necessary for the security and protection of the same, cannot be rendered dependent upon the consent of a Provincial Assembly in the Colonies, without a most dangerous innovation, and derogation from the dignity of the Imperial Crown of Great Britain.”

The measure not only legal, but praiseworthy.

To stop here, would be to do injustice to his Majesty : to state, that in doing what he did, he exercised only a prerogative legal, constitutional, and hitherto unquestioned, is indeed fully to *defend* the measure ; is to obviate every legal objection that can be made to it. But this is not enough : the measure deserved *praise*. Consider a moment ; when was it that these troops were stationed in America ? At the close of the last war. During that war, Great Britain had paid an immense army of foreign troops ; had given large subsidies to the Princes of Germany. To provide for the payment of these troops, and subsidies, she had almost doubled her debt. The interest of this debt is to be paid ; the principal, gradually to be sunk by taxes to be levied on the subjects residing in Great Britain. During the same war, Great Britain had embodied and paid a militia of more than thirty thousand men. To raise this militia, the ablest hands were taken from the farmer and the manufacturer of Britain ; to pay them, the purses of the British subjects were drained ; to find them winter-quarters, the houses of British subjects

subjects were crowded. To what purpose this profusion of expence? these preternatural exertions of power? To comply with the prayers of America^b; to conquer the enemies of America^c. How, mean time, was the bulk and the flower of the national regular troops employed? How, but in fighting the battles of America? What remained of these gallant troops, after the multitude who had shed their blood in the cause of America, were *there* at the end of the war. And was it too much to expect that these troops should be stationed for a while in a country which they had so gallantly defended? Surely it was but just in his Majesty so to station his troops, that they who had reaped the greatest advantages from their courage in time of war, should contribute a little to their convenience in time of peace.

ARTICLE
XI.

It is not now the *legality* of the measure we are defending, it is the *wisdom*, the *policy* of it. Here then we may add, that, during the course of the war, his Majesty's dominions in America had been extended, new

Troops necessary on account of new acquisitions;

^b In the year 1754, the Colonies acknowledged his Majesty's "paternal care for the security of his good subjects of the Provinces," represented that "the encroachments of the French threatened great danger, and perhaps in time, even the entire destruction of the Colonies, without the interposition of his Majesty, notwithstanding any provision they could make to prevent it;" *humbly* professed "their reliance on his Majesty's paternal goodness, that he would take effectual measures for the removal of the French *." Since the cause of their fear is removed, they have discovered that it is all a mistake; that they never *bad cause* of fear; and consequently, that they can be under no obligation to us for having removed what never existed.

^c The great conductor of the last war justified the employing so many troops and paying such large subsidies, in Germany, on this very ground—"America, he said, *was conquered in Germany.*"

* See addresses of the Provinces of Massachusetts and Virginia, and of the Commissioners assembled at Albany in 1754.

ARTICLE XI. countries acquired, new subjects submitted to his government. It was but common policy to maintain such a force, in the neighbourhood of countries so lately acquired, as might ensure the allegiance of subjects who had so lately submitted.

and of the
Indian war.

NOR is this all ; peace was restored to Europe, but not to America : the French had laid down their arms, not so the Indians ; they continued their incursions and depredations on the provinces of Virginia and Pennsylvania. To quell the Indians, to drive them from the very people who now *complain* that the troops were stationed there, were those very troops employed. In what they call a *time of peace*, a war was waging in their behalf, by the troops of the Crown, at the sole expence of the Crown.

ARTICLE XII.

ARTICLE XII.

HE has affected to render the military independent of, and superior to, the civil power.

A N S W E R.

No act of
his Majesty's
government,
to which
this article
can allude.

To what act of his present Majesty's government, this general charge, unsupported by any proof, by the shadow even of a proof, can be meant to allude, is more than I can take upon me to determine, or even to guess. By what act has his Majesty declared, that the foldiers of any regiment or corps, that the officers, that the commander in chief, should be unamenable to
the

the *civil courts for civil offences*? Has not one officer been tried for his life? How then has he affected to render the military *independent* of the civil power? If *dependent* on the civil power, they cannot be *superior* to it.

ARTICLE
XII.

IN civil matters they are dependent on the civil Magistrate; the powers only, which are necessary for the discipline and government of the troops, are lodged in the hands of a commander in chief. In the same hands were they lodged during the reign of his Majesty's royal Grandfather. There his present Majesty found, and there he left them.

In civil matters, the military is dependent on the civil power. The Commander has no other than the military powers, given by his late Majesty. A Commander in Chief first appointed in the year 1756. The first Commission settled and sealed by Lord Hardwicke; and now unaltered.

It was during the late reign, in the year 1756, that a Commander in Chief of the forces in America was first appointed: the first Commission was given to Lord Loudon^d: and that Commission was drawn up by a man, distinguished for his knowledge as a statesman, his abilities as a lawyer; and yet more distinguished by his zealous attachment to the constitution of this country^e. He at that time held the seals: he affixed them to the Commission. The form of the Commission, the powers conveyed by it, remain the same to this hour: by his present Majesty, no alteration has been made; no new powers have been conveyed to the Commander in Chief.

^d His Lordship was at the same time appointed Governor of Virginia. Sir Jeffery Amherst succeeded him in both these employments.

^e Lord Hardwicke.

ARTICLE
XIII.

ARTICLE XIII.

He has *combined* with others to subject us to a jurisdiction *foreign* to our constitution and *unacknowledged* by our laws; giving his assent to their *pretended* acts of legislation.

ANSWER.

Here the Congress throws off the mask.

HERE it is that the Congress throws off the mask. Those who are so respectfully described by the term of *others*; with whom the King is so respectfully said to have *combined*; and to whose jurisdiction the purpose of this combination is to subject the Americans, are the *Lords and Commons of Great Britain*.

Declares all Acts of Parliament to be pretended acts of legislation.

HERE then it is, that the authority of Parliament is totally and fully disclaimed; the exercise of that authority is declared *to be, and ever to have been, an usurpation*; all Acts of Parliament are ranked indiscriminately under the appellation of *pretended Acts of Legislation*: they are not marked as exertions of a power *legal* indeed, but from the abuse of it become tyrannical; and, as such, of a nature to *provoke*, and by the *enormity* of them, to *justify*, resistance; but as *pretended* acts of legislation, exertions only of a *pretended* power; and therefore, *ab initio*, and of their own nature, *void*.

The whole jurisdiction of Parliament described as foreign to their constitution.

WHOSE acts is it that they are said to be? Acts of a "*jurisdiction foreign* (say the Congress) *to our constitution*." It is the whole jurisdiction then of Parliament, and not any *one or more* particular mode of its being exercised, "*that is foreign to their constitution*."

"tion." The grievance is not any *abuse* of the jurisdiction, but the very *exercise*.

ARTICLE
XIII.

As much as this jurisdiction is *now* foreign to their constitution, just so much it must *always* have been; for they do not, I suppose, mean to speak of their constitution, as of a thing that has sprung up in the present reign. Every Act then, by which any jurisdiction was ever exercised over this people, by any King in any Parliament, has been an act of lawless violence; the act of a gang of criminals; a conspiracy; a combination. The two Houses of Parliament are not, nor ever were, legal Assemblies; not bodies of men characterisable by any legal name; but unauthorised, "un-
"acknowledged," individuals.

It must then
always have
been so.

UNDER this load of imputation it must be some comfort to his Majesty to find, that in this instance, as in all those, which have been already, or will be hereafter cited, the crimes alleged against him, are no other than what are common to him with his illustrious Grandfather, with the whole train of his royal predecessors; and with the whole succession of British Parliaments. And, in truth, to his Majesty, in common with these illustrious partners, may it be imputed, that ill-requited indulgence and unmerited fostering care, have pampered a desperate party among these men, till they have at last risen to this enormous pitch of insolence.

The charges
alleged a-
gainst his
Majesty,
common to
him with
all preced-
ing Kings
and all pre-
ceding Par-
liaments.

ENTERTAINING, *professing* to entertain, these sentiments, what disposition there can ever have been in them, to acquiesce in any dependence on Parliament; what degree of truth there can have been in their frequent *acknowledgments* of *subordination* to Parliament, of their readiness to submit to, what they called, its legal orders; what degree of sincerity in those fair offers of

The sincer-
ity of their
late pro-
fessions
may be esti-
mated from
this.

recon-

**ARTICLE
XIII.**

reconciliation, they so lately thought it advisable to pretend at least to make, let every loyal American, let the whole British nation, let all Europe judge.

**ARTICLE
XIV.****A R T I C L E X I V .**

FOR quartering large bodies of armed troops among us.

A N S W E R .

This article answered under the eleventh, so far as regards the stationing the troops. *Quartering* the troops the necessary consequence of stationing them. If the Colonial Legislatures will not compel the Magistrates to provide quarters, they must be compelled by Parliament.

THIS article, so far as it relates to the bare *stationing* of the troops in America, has been already answered under the eleventh article.

So far as it relates to the providing of *quarters* for the troops, it scarcely deserves an answer. The one is the necessary *consequence* of the other. If troops may be stationed in America, quarters must be provided for them in America. If troops be stationed for the purpose of protecting a particular place, quarters must be provided in, or near that place. If the Provincial Magistrates be either not empowered, or not inclined; and if the Provincial Assemblies will not, or cannot, empower, and even compel the magistrates to assign such quarters, what is to be done? One only body there is, whose controuling power superintends the whole of the empire; that body is the Parliament. From Parliament therefore the magistrate must receive those powers which he cannot obtain from the Provincial Assemblies.

FAR

FAR indeed was the Parliament from exerting, on this occasion, a greater power than other Parliaments have exercised over other parts of his Majesty's dominions. But a few years after the Revolution, we meet with a vote of the House of Commons, carried afterwards into execution by an Act of Parliament; by which, not only the number of forces to be kept in Ireland is ascertained^f; but it is enacted likewise, that Ireland should—not *provide quarters*, but—*maintain* (say the votes)^g, “maintain at its *sole charge*” (says the act) the forces in consequence of this act to be kept in Ireland^h.

ARTICLE
XIV.

Still greater
power exercis-
ed in Ire-
land,

THAT there was any thing oppressive in the *mode* of quartering, is not pretended; it is the quartering them at all; it is the quartering them *there*, where their service might be required; that is the grievance alleged. So tender was the British Parliament, so very delicate on this head, that even in the year 1774—when an open rebellion was commenced, when acts of coercion were *necessary*, when the severest measures would have been justified;—it allowed the Commander of the British forces to deviate from the laws *then in force*, as to *one* particular alone. In towns, where barracks were built, it left it indeed to his discretion to quarter his troops in those barracks, or in the *town*, as *he* should judge it most convenient for his Majesty's service. In every other respect, he was commanded to *quarter and to billet them in such manner as was then directed by law*¹.

Nothing op-
pressive in
the mode of
quartering
them.

^f Twelve thousand.

^h 10 Will. III. c. 1.

^g See Com. Journ. vol. i. p. 50.

¹ See 14 Geo. III. c. 54.

ARTICLE

ARTICLE
XV.

ARTICLE XV.

FOR protecting them by a mock trial from punishment for *any murders* which they should commit on the inhabitants of these states.

A N S W E R.

This charge is frantic.

WERE this the first *humble* appeal which the chiefs of the rebellion had made, it would be difficult to guess, at what Act of his Majesty's reign this frantic charge could be levelled.—Would any sober man imagine, that the Congress were speaking of an Act, whose *avowed* and *real* object is, “*the impartial administration of justice?*” That they could stigmatize, as being made for the express purpose of protecting the *troops* from punishment, an Act from the very beginning to the end of which, not a word, not a syllable occurs about the troops? Yet so it is.

The Colonies in actual rebellion when the Act, to which it alludes, was passed, opposing the execution of Acts of Parliament by open force, and denying the authority of Parliament.

THE Act to which this article alludes, was passed in the year 1774^k. At that time, not only, as it is expressed in the preamble, “*had an actual and avowed*” “*resistance, by open force, to the execution of certain*” “*Acts of Parliament, been suffered to take place un-*” “*controuled and unpunished, in defiance of his Ma-*” “*jefty's authority, and to the utter subversion of all*

^k 14 Geo. III. c. 39.

“*lawful*

“lawful government.” But farther, the very power of Parliament to pass these acts, or indeed *any* acts, binding on the Colonies, was now as openly called in question.

ARTICLE
XV.

UNDER these circumstances what was to be done? Two ways only presented their selves. The one, to *repeal* the Acts and *recall* the persons appointed to carry them into execution; the other to *enforce* the Acts, and *support* the persons.

The Acts therefore must be repealed, or enforced, and the persons appointed to carry them into execution recalled or supported. To repeal the Acts, and recall the persons, was to give up America. The Acts then were to be enforced, and the persons supported.

THOSE who advised at that moment, and under those circumstances, to repeal the Acts and recall the persons, advised, in other words, to give up America.

IF to that advice no attention could be paid, the laws were not to be repealed; they must therefore be enforced; the persons appointed to carry them into execution were not to be recalled; they must therefore be supported. How could they be supported, unless in the discharge of their duty, Government held out to them legal protection?

TO the execution of the laws, open force *had been* opposed; to those who had attempted to carry the laws into execution, open violence had been offered; the temper of the people was not changed; what *had* happened would probably happen again; in such case, force was to be repelled by force. From such a conflict, deaths might ensue.

If force was opposed to them, it must be repelled by force.

IF in their own defence, if in repelling the lawless attacks of men, who obstructed them in the execution of their duty, a Magistrate, a servant of the Crown, civil or military, had killed an insurgent, what would have been his fate? To have been tried by a jury, parties perhaps in the insurrection, assuming as law, that the Act commanded by Parliament was *illegal*, and therefore every thing done in defence

If deaths were the consequence, Magistrates, &c. were liable to be tried by a jury, who were parties, and who denied the authority under which they acted.

ARTICLE
XV.

fence of it, illegal too, and therefore every killing murder.

The alternative to be massacred by a mob, or murdered by the hands of pretended justice.

To prevent this, the scene of trial and the persons of the triers were changed, a thing practised in England, &c.

It was not, in the nature of things, that under these discouragements, the servants of the Crown should discharge their duty; the probable alternative was either to be massacred by the mob, or murdered by the hands of pretended justice.

How were these difficulties to be obviated? There have been parliaments, who would have gone a very short way to work; who would not have staid to untie, but would have cut the knot. They would have suspended the ordinary courts of justice, appointed special commissioners for the trials of the culprits, or have established martial law.—Instead of this, what was done? the ordinary courts of justice were not suspended, no special commission was appointed; martial law was not established; the mode of trial was not altered, it was left to a jury; care only was taken, that the jury should be men “*most sufficient, and least suspicious*.” And that was effected by an expedient practised often in England, and in Wales, upon less urgent occasions; practised in Scotland, when Scotland was in rebellion. The scene of trial *only*, and the persons of the triers, were changed.

An temporary and provisional; adapted to the then state of the province.

THAT the intent of the Act might not be mistaken; that it might appear upon the face of it, to be adapted only to the then tumultuous state of the Colony, it was declared to be a temporary Act, to be in force only for three years; to operate only as to persons acting

¹ Description of a jury, 28 Edward I. c. 9. That a jury should be composed of men most sufficient, and least suspicious, must be always a circumstance anxiously to be desired; that it should be composed of men of the vicinity is often a circumstance to be as anxiously avoided.

in their duty as Officers of the Revenue, or as Magistrates, or under the order of Magistrates; nor to extend even to them, but upon information upon oath, that the indictment or appeal is brought for acts committed under these circumstances; upon proof, moreover, that an indifferent trial could not be had on the spot.

To suffer the trial to take place in the scene of insurrection, in the midst of the insurgents; to appoint the insurgents their selves to be judges, would deserve a severer reproach, even than that which these men audaciously throw upon his Majesty.—*It would be to command the innocent to be murdered by a mock trial.*

ARTICLE
XV.

To have suffered the trial there, would have been to command murder.

ARTICLE XVI.

ARTICLE
XVI.

FOR cutting off our trade with all parts of the world.

A N S W E R.

IF the cause of rebellion admitted of ingenuoufness or candour, we might be surpris'd at finding this article among the *list of grievances*.—That list, we were taught to expect, was to consist of acts of *oppression*, tending to *provoke resistance*, and see, they give us an act of *self-defence*, exerted in *consequence* of resistance already shewn. Have they forgot, or do they wish to conceal, from their deluded followers, that the duration of this act depends upon *their selves*? Severe though it

This article represents an act of self-defence, exerted in consequence of resistance, as an act of oppression tending to provoke resistance,

**ARTICLE
XVI.**

it be not, yet let us allow it to be so, the remedy is in their own hands. *Let them return to their allegiance, and the Act is repealed by itself.*

The Act not passed till ordinances had been made in the Colonies to stop all communication with Great Britain.

WERE the effects of this Act yet ten times more ruinous than they are, by what right do they complain? Have they forgot that they set the example? *Before* this Act took place, they had passed Acts—to use their own phrase—of *pretended legislation*, forbidding, on pain of *death*, to hold any correspondence with the people of Great Britain; had issued commissions for the seizure of British ships; had appointed Judges, in the different ports, for the condemnation of British captures.—That they attempted *only* to cut off our trade with our *own Colonies*; that they did not attempt to cut off our trade with the other quarters of the world; they will, I presume, allow to have proceeded from *weakness*, not from *good will*.

**ARTICLE
XVII.****A R T I C L E X V I I .**

FOR imposing Taxes on us without our consent.

A N S W E R .

This the original object of contest, and a popular one.

THIS was originally the *apparent* object of contest. Nor could any thing have been found more proper to work upon the people. Such is the selfishness inherent in human nature, that men in general are but too apt to seize any pretence for evading the obligation

ligation of paying the servants of the Public. To hold forth such a pretence, must be a sure road to popularity, and to all that power which popularity can give. Like the Agrarian law among the Romans, it is a standard to which the multitude would naturally flock.

ARTICLE
XVII.

IN the instance before us, the past indulgence of government gave to the pretence a seeming weight, which it would otherwise have wanted. For one thing appears to be indisputable; had this ungrateful people, from the beginning, contributed to the common burdens of the state, in proportion as, by the care and protection of the British government they had prospered; had their contributions all along kept pace with their ability, they would have wanted the most specious of those shallow arguments, by which they have sought to justify rebellion.

The pretence strengthened by the past indulgence of government.

BUT though the taxes imposed by Parliament on the Colonies, had not, in any degree, kept pace with their abilities, taxes *had been imposed*. No new power was now, for the first time, assumed.

Taxes had been imposed.

By the long Parliament, whose practice, and whose principles, the Congress seems to have proposed as its model, and therefore cannot but approve, not only were the Colonies taxed, but that particular mode of taxation was adopted, which has been generally considered as most dangerous to the liberty of the subject.— They were taxed by an *Excise* ^m.

By the long Parliament.

AFTER the Restoration of Charles the Second, an Act was passed by which duties are imposed upon certain enumerated goods, the produce of the Colonies, car-

In the reign of Charles II.

^m See Lords Journals, vol. viii. p. 685.

ARTICLE
XVII.

ried from one Colony to another. The duties are ordered to be levied by persons deputed by the Commissioners of the Customs in *England*, under the authority, and by the directions of the Commissioner of the Treasury in England; the produce of these taxes was appropriated, not to the service of the Colonies where they were levied, but to general national purposesⁿ.

Of Wil-
liam III.

WAS this Act considered as unconstitutional after the Revolution? So far from it, that it was explained and confirmed by an Act of King William^o. Not only was it confirmed, but the manner of confirming it, was the strongest that could be invented. All laws, usages, or customs in practice in any of the Plantations, then or thereafter, contrary to *this* Act, or to *any* Act of Parliament thereafter to be made, are declared to be *illegal, null, and void, to all intents and purposes whatsoever*.

Of Queen
Anne.

THE same power was exerted under the reign of Queen Anne; the Act for establishing a post-office binds the Colonies as well as Great Britain; fixes the rates to be paid there; appropriates ~~the~~ produce of those rates^p. The Act imposing sixpence a month, payable by all seamen to the support of the royal Hospital of *Greenwich*, extended not only to Great Britain, but to Ireland, and to *all the dominions thereunto belonging*^q. The several Acts passed in the same, and confirmed or altered and amended in succeeding reigns, imposing a duty on prize goods, and appro-

ⁿ 25 Car. II. c. 7. See also Douglas's Summary, vol. i. p. 239.

^o 7 and 8 Will. III. c. 22.

^p 9 Anne, c. 10.

^q 10 Anne, c. 17.

priating the sums arising therefrom to the use of the Crown, are all manifest Acts of taxation.

ARTICLE
XVII.

Nor did the illustrious House of Hanover depart from the policy adopted, or abandon the powers exercised in this behalf, by their predecessors? One of the first Acts of the reign of George the First speaks of *Plantation duties*; orders them to be paid into the *Exchequer of England*; and appropriates the produce of them, not to the particular services of the Colonies, but to the maintenance of the *household*; and to public *general services*.*

Of Geo. I.

By the inattention of those who drew up the Act of Queen Anne, imposing a duty of sixpence a month on all seamen for the maintenance of Greenwich Hospital, the Commissioners of the Admiralty were not empowered to appoint collectors to receive this duty in America; though the clause of taxation extended to America. Early in the reign of his late Majesty this omission was perceived and rectified. Proper powers were given for the appointment of Collectors: All seamen employed in America, whether "upon the high sea, or in any port, harbour, bay, or creek," or "upon the coasts," or "upon the rivers," are subject to the payment of sixpence a month; or to the same penalties upon non-payment as the seamen of Great Britain†. Yet the Americans did not complain of this Act; though it imposed a tax, not for the particular service of the Colonies; not for the general service of the state; but for a particular establishment in England. In the same reign an Act was passed, imposing certain duties on all foreign spirits, molasses,

Of Geo. II.

* 1 Geo. stat. 2. cap. 12.

† 2 Geo. II. cap. 7.

ARTICLE
XVII.

To these
Acts the
Americans
submitted.

syrups, sugars, and panels, imported into the Plantations: In the imposition of these duties, the usual terms of *giving* and *granting*, are applied.

Did the Americans at that time call in question the power of the Commons to *give* and *grant*, and appropriate these duties? Did they call in question the power of the King to receive and expend them? Or of the Officers to collect them? Or of the Courts of Justice to enforce the payment of them? Why then object to the exercise of the same power, by the same bodies, in the present reign? How do they establish their proofs of *usurpation*?

Their consent was not asked *then* more than *now*.

THEIR consent has not been asked to the taxes imposed in the reign of his present Majesty. Was it asked to the taxes imposed in the reign of his predecessors? No. They are not represented now? Were they otherwise represented then? No. Did they wish to be represented? Nor that neither. But they wished not to be taxed. They were contented to enjoy the benefits, but chose to decline bearing any part of the burdens, of Government.

The taxes, imposed in the present reign, moderate; not equal to their proportion.

SINCE therefore, on the score of usage or custom, no objection can be made to the power of taxation itself, does any objection lie against the particular Acts of taxation, during the present reign? Does the objection lie against the *quantum* to be raised? Is that more than they could bear? It is scarce pretended that it is. Does it exceed the proportion, which the Americans should bear of the common burden of the state? This, I believe, one of their Agents did say: He might as well have said, that two were more than two hundred. Would it have reimbursed the capital, would

would it even pay the interest, of the immense sums expended for the use of the Colonies? It could not be pretended¹. Would the produce of these taxes pay their proportion of a debt of 70,000,000 *l.* contracted during the last war: A war undertaken in their defence? Nor that neither. Would it pay the 350,000 *l.* annually expended in maintaining their own establishments, civil and military? Nor that neither. How then were they taxed beyond their proportion?

ARTICLE
XVII.

If no objection lie to the quantity of taxes imposed, it was perhaps to the mode of taxation that their objection lay? Was the mode a bad one? They could scarce pretend to say it was; they had no more exception to this, than to any other. Was it unprecedented? Among them, perhaps, one of the modes adopted was without a precedent; but long since had it been established among their fellow-subjects in Great Britain. And are subjects to revolt at any time, upon every alteration, whether for the worse, or whether for the better, in the mode of taxing them?

The mode
of taxation
not a bad
one.

Was it to the uses to which the sums levied were to be appropriated, that any objection could lie? Nor that neither. For the taxes imposed on the Colonies in the present reign, were not applied to the maintenance of the household; nor to the support of establishments in England, as many taxes imposed on them in former reigns had been; they were appropriated to the maintenance of Government in *America*.

The sums
applied to
the support
of their own
Govern-
ment.

¹ Since the accession of the House of Hanover, that is, during a space of sixty years, Great Britain has expended on the revolted subjects no less a sum than 34,697,142 *l.* 10 *s.* 10 *d.* See vouchers in "The Rights of Great Britain asserted."

ARTICLE
XVII.

The grievance therefore imaginary.

UPON the whole then, neither was any new power assumed in taxing them, nor in the exercise of an accustomed power were they hardly treated in the proportion assessed; nor were they aggrieved by any oppressive mode of collecting; nor were they called to contribute towards services, in which they had not an immediate interest. What then was the grievance? It existed in imagination only. They were afraid, that one time or other, God knows when, they should be aggrieved; either by being assessed beyond their proportion, or by being subjected to an oppressive mode of payment; or by being forced to contribute to services, in which they had no immediate interest; and therefore they would not be taxed at all. To prevent an evil, possible only in future, they refuse to submit to a present certain duty. To guard against oppression, at some distant period, they think it right to fly out into actual rebellion.

ARTICLE
XVIII.

ARTICLE XVIII.

FOR depriving us, in many cases of the benefit of trial by Jury.

A N S W E R.

It is to cases cognisable in the Courts of Admiralty that this Article alludes,

THE cases, in which the Americans are deprived of the benefit of trial by jury, are confined to those, the cognizance of which is attributed to the Courts of *Admiralty*.

To

To allege, either the institution, or the jurisdiction, of these Courts, in support of the charge of usurpation, the Congress should have proved—either that Courts of Admiralty were unknown in the Colonies, till the present reign—or that their jurisdiction has been extended to cases, to which, in no preceding reign, it ever had been extended.

THE former of these assertions, so long as there remains a single copy of our Statute-books, there is no great danger of their making: The latter they have made. Yet to what cases does the jurisdiction of these Courts at present reach? To breaches of the Acts of navigation, to questions of revenue.—To these and no other. It extends neither to civil suits, nor to pleas of the Crown. Where then is the extension of jurisdiction? The jurisdiction is confined to that class of cases alone, for the determination of which the Courts were originally instituted.

OF the whole list of charges, so confidently urged against his Majesty, each seems to be distinguished by its own peculiar absurdity. In considering this charge, for instance, one cannot but remark that no harder measure is meted out to the Americans than to their fellow-subjects in Great Britain. In America, questions of revenue are not decided by a jury. In England, are breaches of the laws of Excise, of the land tax, of many other revenue laws, decided by a jury? Are we therefore at liberty to rebel; to take up arms against Government? To disclaim all allegiance to our Sovereign?

THE original institution of Courts of Admiralty was not, we have seen, the act of his present Majesty. To

ARTICLE
—XVIII.

No proof of usurpation, unless these Courts were unknown till the present reign, or their jurisdiction be extended to new cases. But these Courts were established long before the present reign, nor is their jurisdiction extended to new cases.

In England, many cases of revenue are decided without a jury.

ARTICLE
XVIII.

him, therefore, if the institution be a wise one, no praise ; if it be unwise, no blame, can accrue. It may, however, be worth while to observe, that these Courts were instituted, and breaches of the Acts of Navigation and Revenue were referred to them, for reasons *then conclusive*, and *still* subsisting, at least with *unabated* force. No justice could be expected from juries, because no juries could be found who were *not partners of the guilt*. Under these circumstances, the institution of courts who should decide without a jury, was a remedy which could not but occur, and which has been adopted on other occasions.

Courts
without a
jury insti-
tuted in the
reign of
King Wil-
liam for the
trial of pi-
rates.

IN the beginning of the present century, the seas of America swarmed with pirates. In this virtuous country, it was impossible to bring the offenders to justice. The chief men among the Colonists had a joint interest with them. Was the Governor active in his endeavours to suppress them ? Petitions were sent home against him : The King was pressed to recal him. Did he attempt to seize the criminals ? His attempts were generally baffled ; the Colonists gave them intelligence. Did he succeed in his attempt ? Scarce a magistrate could be found to join in the examination and commitment. Were the criminals committed ? The gaolers, either interested, or bribed, or intimidated, connived at their escape. Did they not escape, were they tried ? Scarce a jury would convict them. Were they convicted ? The laws of the Colonies pronounced no adequate punishment against them.

These were
criminal
capital
cases.

THE losses sustained by our merchants were enormous. They applied to Parliament ; stated their grievances, and the impossibility of obtaining redress in the courts of the Colonies^u. This was in the

^u See Com. Journ. vol. xiii. p. 31, &c.

reign

reign of King William, not long after the glorious epoch of the Revolution. Did the Parliament at *that* time consider it as unconstitutional, as contrary to the rights of the subject, to constitute courts, who should decide *without juries*, even in these, which were *criminal, capital* cases? No. An Act was passed empowering his Majesty to appoint *Commissioners* for the trial of pirates in any of his Majesty's *Islands, Plantations, Colonies, Dominions, Forts or Factories*™. Seven only were enough to constitute a court. In the description of the persons the King was not confined; he might appoint whomsoever he thought fit to appoint. No jury was to be summoned; the majority of seven decided without appeal; the persons condemned were to be executed and *put to death* in such time, in such manner, in such place, as the majority of the court should command.

Did the Colonies dare to call in question the right of Parliament to enact a law so severe and unusual? or to deny the authority of the Commissioners who acted under it? or to oppose the execution of the sentences they pronounced?—No.—The Colonies at that time felt that their existence depended on the protection of Great Britain. The British Government at that time was vigorous and stern. Vigorous and stern, indeed, was the penalty which enforced the execution of this Act.

“ BE it enacted,” (says the Legislature) “ That if any of the *Governors* in the said *Plantations*, or any *person* or persons in *authority* there, shall refuse to yield obedience to this Act, *such refusal is hereby declared to be a forfeiture of all and every the charters*

ARTICLE
XVIII.

The Colonies did not call in question the right of Parliament to pass this Act.

The penalty by which this Act was enforced was vigorous and stern.

™ 31 & 32 Will. III. c. 7.

“ granted

ARTICLE XVIII. "*granted for the government or propriety of such Plantation.*"

HAD the framers of the Stamp-Act spoken in the same manly stile, America had never revolted.

ARTICLE XIX.

ARTICLE XIX. For transporting us beyond sea to be tried for pretended offences.

A N S W E R.

These offences are Treason, misprision of Treason, and burning his Majesty's stores, &c.

Called here pretended offences.

THE offences, to which this article alludes, are *Treason, misprision of Treason*—and *burning his Majesty's yards, arsenals, ships, or stores.*

THESE, in a language well exemplified by their conduct, the members of the Congress stile—*pretended offences.* They had before declared Acts of parliament, to be *pretended Acts of legislation.* The progression is neither rapid nor surprising: If Acts of the supreme power of the state be only Acts of *pretended legislation*, offences, levelled against the *existence* of the state, may well be stiled *pretended offences.*

Considered by the Parliament as real offences.

Offenders to be tried in England, in

HAPPILY, however, the Parliament considered them as *real* offences, and conceived itself bound to provide, that men, *guilty* of them, should be brought to condign punishment; men, *accused* of them, to a *fair and impartial* trial. To this end, a power is given to the King, to order such persons to be tried in England.

land *. This power was given in the cases of Treason and misprision of Treason; by an Act of more than two hundred years standing †: In the case of burning his Majesty's ships, stores, &c. by an Act of the present reign ‡.

As to the power granted in cases of Treason and misprision of Treason, by the Act of Henry VIII. it cannot, I think, be imputed to his *present* Majesty as a crime; as a proof of tyranny or usurpation, that *two hundred years before he was born*, the Parliament of England thought proper to vest this power in the hands of the Crown. It cannot, I think, be imputed to him as a crime; that during a period of more than two centuries, in all the successive changes and reformations which the constitution of England has undergone, this power has remained untouched; till this moment uncensured; that neither the framers of the *petition* of Rights, or of the *bill* of Rights, nor those who established the succession in the House of Hanover, thought it fit or expedient to divest the Crown of this power, or to alter the provision of this Act.

THIS is the more remarkable, as the Act in question, though of long standing, is not obsolete, has not, through non-use, sunk into oblivion. From the very nature of the offence it was not likely that frequent occasions should occur of putting this act in force. Occasions, however, have occurred; and whenever they have occurred, the Act has been put in force, both before and since the Revolution.

* To be tried in England, they must be brought to England—So long as England, with respect to them, is beyond sea, they cannot be brought to England, without being transported beyond sea.

† 35 Hen. VIII. c. 2.

‡ 12 Geo. III. cap. 24.

ARTICLE XIX.

the case of Treason, &c. by an Act of Henry VIII. in the case of burning his Majesty's ships, &c. by an Act of the present reign.

It cannot be imputed to his *present* Majesty, that an Act was passed two hundred years before he was born, nor that it continues unrepealed.

The rather, as this Act has been put in force, whenever occasion of putting it in force occurred.

Not

ARTICLE
XIX.Against of-
fenders in
Carolina.

Not long before the Revolution, and during the time that disputes between the proprietors and people of Carolina had excited almost a civil war, Sir John Yeomans, the then Governor, sent over one Culpepper, who was tried upon this very Act in Westminster Hall, for High Treason, and acquitted ^a.

In Antigua.

AFTER the Revolution, in the year 1710, the inhabitants of Antigua, disgusted at the conduct of Colonel Parks, their Governor, and not having been able to obtain his recall, rose in a body and massacred the Governor at his own door. That a crime, in the commission of which so many had partaken, should be punished as it deserved, on the spot, was not thought likely. The ringleaders were ordered to be sent to England; they were sent, and tried upon this very Act: Some were convicted and *executed*; others reprieved.

In the reign
of King
William,
the pirates
in America
were order-
ed to be
brought to
England,

So far was this power from being considered as unconstitutional *after* the Revolution, that in the case of the pirates, in the reign of King William, mentioned under the preceding article, the Lords Justices, in the absence of the King, thought their selves bound to order the pirates to be brought into England; did actually fit out one of his Majesty's ships for the purpose of bringing them, and the evidence necessary for their conviction and punishment ^b. Neither the Lords Justices, nor the then Judge of the Admiralty, Sir Charles Hedges, conceived that the pirates could be tried any *where* but in England, without a special Act of Parliament for that purpose ^c.

^a See Wynn's History of America, vol. ii. p. 255.

^b The ship was shattered by a storm, and forced to put back. The Act mentioned in the preceding article was then passed.

^c See papers relating to Kidd, and the report of Sir Charles Hedges. Com. Journ. vol. xiii. p. 36, 37.

It appears then, that in addressing his Majesty to enforce the Act of the thirty-fifth of King Henry the Eighth, the Parliament did nothing more than pursue the ordinary course of justice; than call on his Majesty to carry into execution a law neither repealed nor obsolete; a law too founded on principles so perfectly consistent with the Constitution, that the same provisions have, in later instances, been adopted; instances to which, on account of the Act of Union, it was thought this Act would not reach^d.

With respect to the Act of the present reign, by which those who are guilty of burning his Majesty's ships or stores may be likewise tried in England, it is something remarkable that the Colonies are not particularly named in it; it is said only in general terms, "that persons who shall commit any of these offences in any place out of this realm, may be indicted in any shire or county in the realm."

It is however more than probable, that the Legislature had the Colonies in contemplation. The reason is this: One of his Majesty's armed sloops^e had been surprised and burnt by the people of Rhode Island. His magazines and stores had been burnt at Boston. No satisfaction could be obtained to his Majesty; no punishment inflicted on the offenders. What was to be done? Were his Majesty's ships to be excluded from the seas and ports under his own dominion? Were these daring offenders to go unpunished? Was the Parliament to give its sanction to the opinion, then clearly adopted by the people, and since avowed by the

ARTICLE XIX.

Rebellions committed in Scotland tried in England, notwithstanding the Act of Union.

In the Act of the present reign against burning, the Colonies not mentioned.

Though the Legislature had them probably in contemplation, and why.

^d Treasons committed in Scotland, were tried in Surry. See Foster's Crown Law. Report of the case of the Kinlochs.

^e The Gaspee Schooner.

ARTICLE XIX. Congress, that these were only *pretended* offences? Or was it to have recourse to the remedy pointed out by the Constitution, that of calling the offenders to a trial *there, where alone an impartial trial could be had?*

ARTICLE XX.

ARTICLE XX.

FOR abolishing the free system of English laws in a neighbouring Province, establishing therein an arbitrary government, and extending its boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies.

A N S W E R.

What have the revolted Colonies to do with his Majesty's government of another Colony? Canada is not dependent on, is not associated with, them. Do the mighty heroes, who defy the united force of Britain, begin to tremble at a single Province? Are they, who pledge their lives, their fortunes and their *sacred honors* in defence of liberty, so fearful of the strength of their own attachment to liberty, that they dare not look on men, who have submitted to what they call *arbitrary government*; lest they too catch the contagion, and follow the *example*? Or are they fearful, that their deluded followers may at length discover, that whilst their

their leaders are alarming them with acts of pretended tyranny, they are really bringing them under subjection to the worst of all tyrants—artful, selfish Demagogues?

ARTICLE
XX.

No regulation concerning *another* Colony can have any right to find a place in the list of their own pretended grievances. This would be answer sufficient to this article. Let us however see, if the going thus out of their way to make a charge so foreign to their own concerns, be compensated by any degree of candor? What is their objection to the act for regulating the government of Quebec?

What objection lies against the Act for regulating the government of Quebec?

THE first is, that by this act, the bounds of Canada are extended. There are little circumstances which materially change the nature of a transaction: these a skilful narrator tells, or suppresses, as best may suit his purpose. It suited the purpose of the Congress to suppress, that in this Act it is expressly provided, that "*the boundaries of no other Colony shall in any wise be affected!*" that all rights, derived from preceding grants and conveyances shall be saved! Had this been told, their charge was answered. That which had not been granted was the property of the King. He might do with it as he pleased; erect it into a separate Colony, or annex it to any Colony already established. So far then no injury was done.

I.
Extension of the boundaries. No prejudice to any other Colony, or individual grantee.

BUT this act has *abolished the free system* of English laws, and established an *arbitrary government*. That could not be *abolished* which had never been *established*. The truth is this. Soon after the conquest of Canada, temporary provisions were made, by a proclamation of the King, for the government of Canada. These provisions were in many cases found inapplicable

II.
The abolition of a free system of government not true. The Act only re-establishes ancient laws at the request of the people to be bound by them.

ARTICLE
XX.

cable to the state and circumstances of the Province. They were therefore repealed; and this Act was passed *re-granting* to the Canadians the free exercise, unchecked by any civil disqualifications, of the religion in which they had been educated; *re-establishing* the civil laws, by which, prior to their conquest, their persons and their properties had been protected and ordered. Do the Canadians complain of this alteration? No. It was made in consequence of their petition.

To disobey
the orders
of the Bos-
tonians, and
to listen to
the petition
of the Cana-
dians, both
proofs of ty-
ranny.

To *disobey the mandates* of New-England, and to *listen to the humble petitions* of Canada, are equally crimes in his Majesty. It is a crime to make the minutest change in the constitution of the revolted Provinces; and it is a crime of the same nature not to overturn the whole constitution of a dutiful Province. Not to deviate from the spirit of a charter, and to observe the spirit of a treaty of peace, are both acts of usurpation. To check innovations at Boston, and to respect the customs, and prejudices, and habits of thinking in Canada, are acts of the same tyranny.

ARTICLE
XXI.

ARTICLE XXI.

FOR taking away our charters; abolishing our most valuable laws; and altering fundamentally the forms of our government.

ANSWER;

A N S W E R.

ARTICLE
XXI.

COULD this article be proved; were it true, that his Majesty, in conjunction with his Parliament, had “*fundamentally altered the forms of the colonial governments,*” for such an Act I should not think it necessary to frame excuses: It would need no *excuse*; it would deserve *praise*. *Innovation* suppose it were, *glorious* would be that innovation. Long since had it been incumbent on Parliament to do, what in this article is—alas! untruly—alleged to have been done.

Were this article true, it would need no excuse.

SOME alterations are confessed to have been made, during the present reign, in the charter of Massachusetts Bay; but not a *valuable law* has been changed; nor have the alterations gone deep enough into the foundations of the government. The charter has been only amended in one or two particulars; it ought to have been new modelled from one end to the other; or rather to have been taken away, and a new one substituted in its stead.

The alterations made in the form of the government of Massachusetts Bay, go not deep enough into the foundations.

HAD it been taken away, could these people have complained? Give to charters what force you please—give them the highest—give them all the sanctity of *treaties of peace* between independent States; still such has been the conduct of the people, and the magistrates of Massachusetts Bay, that the charters would have been rightfully forfeited. What are treaties? Compacts made up of mutual conditions. If one party fail in the performance of that which it stipulates to perform; the other is absolved from the performance of that which on *its* part is stipulated to be performed. Now it is not denied, that one condition expressed in all the charters is, that the Colonists shall be deemed

Supposing charters to be as sacred as treaties of peace, this charter was rightfully forfeited.

ARTICLE
XXI.

subjects of this realm; that is, subject to the power of Parliament. To have denied the power of Parliament is therefore a forfeiture of the charter.

Charters never considered in so high a light, have been frequently changed by the King alone.

BUT the truth is, that neither by the Parliament, nor by the Crown, nor by the *Colonists their selves*, were charters ever considered in so high a light. Innumerable are the instances of alterations made in the charters, of suspensions of the power granted by them: some by the sole authority of the Crown, some by the King in conjunction with his Parliament.

All the charters under which the Colonies now claim, are Acts of the King repealing former charters.

WHAT indeed are all the charters, under which the present Colonies claim? What but Acts of the Crown, *repealing former charters*? If charters, once granted, could not be altered; could not be repealed, by the Crown, the original Virginia charters would be still in force: the revolted Colonies would be reduced to two; and the inhabitants dependent on two trading companies, *residing in England*.

Suspension of the powers granted in the charter of Maryland by King William.

To descend to more recent instances. In the reign of King William, by the advice of Lord Chief Justice Holt, notwithstanding the charter, the proprietor of Maryland was divested of his jurisdiction: nor was that jurisdiction restored to the family till after the accession of the House of Hanover; till the then proprietor had conformed to the church of England. Nor then was it restored entire; but "so far only as the Legislature had thought fit that any proprietor should enjoy it".

Suspension of the powers granted in the charter of Pennsylvania by King William.

IN the reign of the same King William, notwithstanding the charter, his Majesty took from the proprietor of Pennsylvania, the privilege of appointing a

^f See account of the European Settlements, vol. ii, p. 231. This book is attributed to Mr. Burke.

Governor;

Governor; and took on his self to appoint Colonel Fletcher, then Governor of New York, to be Governor of Pennsylvania. The proprietor did not call in question his Majesty's right; he petitioned only as for an *Act of Grace*, to be restored to the privilege he had before enjoyed.

ARTICLE
XXI.

IN the reign of Queen Anne disputes had arisen in the Provinces of Connecticut and Rhode Island, concerning the power of commanding the militia. This was claimed in virtue of the charter, by the Assembly. The opinion of the Law-Officers was asked; they allowed that the claim was supported by the charter; but they were at the same time *unanimously* of opinion, that the Crown had the power of *altering* the charter, and giving the command of the militia into such hands as the common good should require. In consequence of this opinion, a Commission passed the great seal, appointing the Governor of New York to be Commander of the forts and militia of the Province of Connecticut; and the Governor of Massachusetts to be Commander of the forts and militia of the Province of Rhode Island.

Suspension
of the powers
granted in the
charters of Con-
necticut and
Rhode Island, by
Queen Anne.

WHAT is the charter, under which the present inhabitants of Massachusetts claim? An Act of King William. And that Act, has it remained unaltered; have no fundamental changes been made in it, by the Crown in later times?

The present
charter of Mas-
sachusetts, granted
by King William.

IN the twelfth of George the First, in the year 1722, some turbulent Members of the Assembly having gained the ascendant over their fellow-representatives, and in some measure over the Council, endeavoured to subject the Governor likewise to their usurped authority. But the Governor was too faithful a guardian of the rights

Altered by
George I. and the As-
sembly com-
manded to
adopt those
alterations
under the
form of a
explanatory
charter;
which was
done.

ARTICLE
XXI.

Change in
the govern-
ment of
Carolina in
the year
1720.

of the Crown. He repaired to England, and exhibited at the Council Board, articles of complaint against the House of Representatives. His complaints were heard; the Provincial Agent, in the name of the Representatives, acknowledged many of the claims to be encroachments, and readily gave up all but two. These were the power claimed by the Assembly of adjourning themselves as long as they please; and the right of chusing a speaker, not subject to the Governor's negative. Of these two claims, which the Agent was not authorised to give up, *they were ousted by an explanatory charter; which they were commanded to accept; and which, with all due submission, they did accept* ^g.

EARLY in the present century violent were the tumults and riots excited in Carolina by the quarrels between the Churchmen and Dissenters. Disputes of a no less alarming nature sprung up between the people and proprietors. The neighbouring Indians were provoked by a series of violence and outrage. To prevent the last ruinous consequences of these domestic dissensions and foreign wars, the Crown took the Government of Carolina into its own hand, changed the constitution, and divided the country into two Colonies, independent each of the other. How did the proprietors conduct their selves on this occasion? Did they deny the power of the Crown to alter the Charter? No, say the relators of this transaction—" *they made a virtue of necessity* ^h." That is, they submitted with a good grace to a power which they knew to be legal.

THESE

^g See Wynne's History of America, vol. i. p. 149, 150. Douglas's Summary, vol. i. p. 211. 379, 380.

^h See Wynne's History of America, vol. ii. p. 264. History of European Settlements, vol. ii. p. 240. In both these writers there is an inaccuracy

THESE are instances of alterations made in the Charters by the sole power of the Crown. Acts to which the Crown was competent alone could not surely be without the sphere of its power, united with Parliament.

NEVER till the present troubles does a doubt seem to have been entertained, in or out of either House of Parliament, Whether Parliament could alter the charters, abridge the privileges granted by them, or even reassume them.

THE provisions of that Act of King William¹, which restrain the proprietors from selling their lands, without the consent of his Majesty, previously obtained, to any but natural-born subjects:—Which command that the Governors appointed by the proprietors, or other *persons* empowered to nominate Governors, shall not act till his Majesty's approbation be previously obtained; and till they have taken certain oaths, relating to the execution of their office; are so many changes introduced into the charters; so many abridgments of the powers originally conveyed by them.

THE clause of the Act for the more effectual suppression of piracy^k, which declares, that the refusal of any Governor or *person in authority*, to yield obedience to that Act, shall be a forfeiture of all and every

curacy in the statement of this transaction. They suppose the change in the government, and the surrender of the territorial rights in Carolina, to have happened both at the same time, and both to have been effected by Act of Parliament. The change in the government was begun long before the surrender of the territorial rights; and it is this last only which is confirmed by 2 Geo. II.

¹ 7, 8 Will. III. cap. 22. sect. 16.
cap. 7. sect. 15.

^k 11, 12 Will. III.

ARTICLE XXI.

The power of the King in Parliament cannot be less than that of the King alone. Their power of altering the Charters never till now called in question.

The Charters in general were altered by the 7 & 8 William III. c. 22. sect. 16.

The power of revoking them actually exercised by 11 & 12 William III. c. 7. sect. 15.

ARTICLE
XXI.

the charters granted for the government or propriety of such plantation, is not a *naked declaration of the right to revoke all charters*; it is an *actual commencement of the exertion of that right*; suspended only by the obedience of the Colonies to that law.

The Board of Trade suggested in the reign of William and his successors, that it would be necessary to re-assume the Charters.

AND indeed, so little does it seem to have been doubted, that the Parliament might re-assume the Charters, that in the reign of King William, and in many succeeding reigns, the Board of Trade suggested to Parliament, that such re-assumption was the only effectual remedy against the repeated violations of the laws for regulating the trade and government of the charter and proprietary Colonies¹.

A Bill brought in to the House of Commons for that purpose in the reign of Queen Anne.

THE cause of complaint against the Proprietary and Charter Governments, still continuing and acquiring new force, Parliament had it in contemplation to adopt the measure suggested by the Board of Trade^m. A bill was ordered, in the 4th of Queen Anne, to be brought into the House of Commons for the better regulation of these governments; it was actually brought in, and read. It failed, not from any doubt of the authority of Parliament to new regulate the governments, but in some measure from a spirit of party, in some measure from a wish of postponing a business

¹ See Com. Journal, vols. xii. xiii. passim. To those with whom the weight of name is greater than the weight of argument, it may not be useless to remark, that these suggestions from the Board of Trade were first made at a time that Mr. Locke sat at the Board; that great man, whose arguments the Americans have so tortured, in order to press them into the service of rebellion. For in the Reports printed in the Journals, and made in the year 1700, 1701, &c. reference is made to reports of the years immediately preceding, where this advice to re-assume the Charters is given. Mr. Locke sat at the Board of Trade from 1695 to 1700.

^m See Com. Journ. vol. xv. p. 151. 180.

which

which required so mature deliberation, till a conclusion should be put to a war, the extent and complicated objects of which, required all the attention of Government.

ARTICLE
XXI.

So far was this power of re-assumption from being thought unconstitutional, that in the succeeding reign a Bill was again brought into the House of Commons for the same purpose of new regulating the Charter and Proprietary Governments in America^a. It was brought in and supported by a *Whig* Ministry. But it happened to be late in the Sessions ere it was brought in; it was, however, read twice; it was committed: Petitions were heard against it from all the Charter and Proprietary Governments, none of which presumed at that time to call in question the *right* of Parliament to new model the Governments of America. Unhappily the Bill was not perfected that Session, and the rebellion which broke out in the succeeding year, turned the attention of Government to events nearer home.

Another in the reign of George I. against which the Colonies petitioned, but did not deny the right of Parliament to alter, or revoke their Charters.

LET any impartial man reflect a moment on the power, which, from this short account, appears to have been claimed, and in so many instances exercised, by preceding Kings and preceding Parliaments; let him compare it with the power exercised over them in the present reign. On the one hand, what will he see? By the sole Act of the Crown, he will see proprietors divested, some of the right of naming Governors, others of all jurisdiction: Colonies, of the command of their forts and militia; Assemblies, of the power of adjourning *ad libitum*, and chusing a Speaker, not subject to the Governor's negative.—By the concurrent Act of the Crown and Parliament, he will see the right of re-

Difference between the power claimed and exercised over the Charters in preceding reigns, and the power exercised over them in the present reign.]

^a See Com. Journ. vol. xviii. p. 162.

ARTICLE
XXI.

§ 1371

1772

assuming all the Charters in general asserted, and not denied by the Colonists their selves; he will see that right actually begun to be exerted and suspended only by the obdience of the Colonies to an Act of Parliament.—On the other hand, under the present reign, what changes will he see? He will see the constitution of one of their Legislatures brought nearer to the model of the British constitution. He will see juries appointed as juries are appointed in England: by the former change he will see their constitution more equally poisoned; by the latter, justice more impartially administered.

Particular
defence of
the Act.

ON this general ground, we might safely rest the defence of the Act in question. On this general comparison we might leave it to the world to judge what room there is to allege this article in support of the charge of usurpation and tyranny. But it may, perhaps, be not altogether useless to state more particularly the changes made in the Constitution of the Massachusetts Government, and to allege the reasons which induced the Parliament to make them.

Charges introduced into the Government of Massachusetts.

THE two material charges introduced by the Act for regulating the Government of Massachusetts Bay, are, first, in the mode of appointing juries; secondly, in the appointment and tenure of the members of the Council.

I.
In the mode
of appointing
juries.

BEFORE this Act, the jurors of the Grand Juries were chosen and returned by the freemen, on notice sent them by the Clerk of the Court. Out of the prerequisites of the Court, they had a salary of three or four shillings a day°. What was the consequence of

° See Appendix to Neal's History of England, Vol. II. p. 4. title, "Juries."

this

this mode of appointment? Juries were *packt*. They were nominated at the town meetings by the *heads of a party*. A Jury, for instance, was summoned to inquire into riots. Among these *impartial*, respectable jurors, one was returned who was a *principal* in the very riot, into which it was the business of this very jury to enquire^p. Can any man entertain a moment's doubt, whether this part of their constitution stood in need of reformation?

THE next material change, we have said, was in the appointment and tenure of the members of the Council. This Council was a *constituent branch* of the *legislature*; it was moreover a *Council of state*; that is, in some cases, a branch of the executive power; for its *consent* was necessary to the performance of certain Acts, and its *advice* was to be *asked*, at least, if not *followed*, previous to many other Acts, to be done by the Governor. The members of this Council, to whom functions so distinct and important were attributed, were not only *eligible*, but in case of misdemeanor, *amovable* by the General Assembly. The inconveniencies of this had been severely felt by a long succession of Governors: Their letters are filled with complaints of them. To be known, to be believed, to be even suspected, to be inclined to support the supreme authority of Parliament, or the constitutional rights of the King, in the provincial Government, was sufficient reason for exclusion from the provincial Council. Did the Council appear to be a little untractable? Did it hesitate to go all lengths, on what was called, the popular side? It was reminded, that the day of election was at hand.

ARTICLE
XXI.

II.
In the ap-
pointment
and tenure
of the mem-
bers of the
Council.

^p See printed letters of Governors Hutchinson and Oliver, p. 31.

What

**ARTICLE
XXI.**

What resistance could a Council, thus dependent, give to the extravagance of a democratic party? Deprived as it was of that free agency, without which, power cannot subsist: of that respect and dignity, without which, it cannot operate; what advantage would the constitution derive from such a Council in its legislative capacity? Consider it in its executive capacity, and it was to be full as useless. What vigour could it be expected to shew? What power could it exert? Let us see what vigour it did shew; what power it did exert. By bands of armed men, parading publicly at noonday, in the sight of the Magistrates, private property was destroyed; the property of the King seized; his magazines razed to the ground; his officers compelled by torture to resign their employments; his Courts broken open; his Judges assaulted; the files and public records destroyed; the houses of his Governors pillaged.—The Council mean while looked on as cool and unconcerned spectators: They were exhorted to enforce the orders of Government; to advise and assist the Governor in the execution of them:—What was their reply?—“ *They did not see their way clear enough to give any advice or assistance.*”

Was it then an Act of tyranny in the Parliament; Was it an unpardonable crime to rescue one branch of their Government from such a slavish dependence on another branch, as defeated all the advantages to be derived from it?

ARTICLE XXII.

ARTICLE
XXII.

FOR suspending our own legislatures and declaring themselves invested with power to legislate for us, in all cases whatsoever.

A N S W E R.

HE who despairs of convincing, may find it his interest to confound. Such seems to have been the view of the framers of this Article. Two distinct Acts¹—passed in different years, upon different occasions, with different views, (the operation of one being confined to a single Colony, and the other amounting to no more than a naked assertion of fact, scarcely meant to operate at all)—are here blended together, as being one *general law*, intended to operate in *all the Colonies*. For in reading this Article, who would not conclude, that by some one Act, the Parliament had *suspended* the legislatures of *all* the Provinces; and had taken on itself the *exclusive* right of making laws for them all?

Two distinct Acts blended together; and represented as one general law intended to operate in all the Colonies.

THE Act by which Parliament is said to have suspended their *legislatures*, is a conditional Act for restraining the Governor and Council of New York *alone*, from assenting to any bill till the Assembly should have made provision for furnishing the King's troops with all the necessaries required by *law*².

The Act of suspension an Act affecting New York alone; and the suspension only conditional; the duration depending on their selves.

¹ 7 Geo. III. cap. 59. 6 Geo. III. cap. 12.

² The refusal of this Colony to furnish the troops with the necessaries required by law, followed immediately on the *repeal of the Stamp Act*. A repeal by which the partisans of America maintained that the obedience of the Colonies was secured.

THAT

ARTICLE
XXII.

This suspension was the mildest censure that could be inflicted on the Assembly.

THAT it is the indisputed prerogative of the King to station his troops where he sees fit; that where the troops are stationed they must be quartered; must be furnished with the necessaries required by law; that where provincial legislatures will not provide for these objects, it is incumbent on Parliament to provide for them, are points, on which we have already insisted. That a *local, subordinate* legislature may take on itself to annul the provisions of an Act of the *supreme* legislature of the *whole* empire, is a proposition so extravagant, that no man, I think, can maintain it. That the suspension of the functions of a subordinate legislature till it recovered from such a fit of extravagance, is the mildest censure that could be passed upon it, will I suppose be readily allowed. To state this Act, is therefore to justify it.

The Act of Declaration contains a mere assertion of fact, without either command or penalty.

THE Act, to which the second clause of this Article alludes, was passed a year before, under the administration of a noble Lord, whom the Congress classed in the "*band of illustrious patriots*," so long as they allowed any patriotism to remain among us*. It contains only a simple assertion of the power of Parliament, to exert the same authority over its subjects in America, as over all the other subjects of the empire: That is, to make laws binding in all cases whatsoever. In this Act, not a syllable is said about suspending their legislatures. It exacts no *recognition* of the authority it asserts: No *rescission* of the resolves, by which that authority had been denied. It

* It was under the administration of the *same* noble Lord that the Act for providing his Majesty's troops with necessaries was passed: And it was the observance of *this* Act, which, that for suspending the legislature of New-York, was meant to enforce.

is armed with no *penalty*: It can hardly be called a *law*: It does not even contain a *command*. It is, in short, the most harmless piece of parchment, that ever was sent forth into the world. To urge this Act, as a plea for rebellion, is not less ridiculous than it would be in the Grand Turk to declare war against the King of Naples, for styling his self King of Jerusalem.

ARTICLE
XXII.

ARTICLE XXIII.

ARTICLE
XXIII.

HE has abdicated Government here, by declaring us out of his protection, and waging war against us.

A N S W E R.

To exact obedience to law, to punish the disobedient, have been in all ages and countries, considered as the *highest Acts of Government*; as functions which appertain to, and distinguish, the *supreme power of the state*. The Members of the American Congress are the first of all mankind who have discovered, that to do these Acts, and to exercise these functions, is to *abdicate Government*.

Acts of *supreme authority* given as proofs of *abdication* of Government.

How are they declared out of his Majesty's protection? Just as a simple *individual*, who should be *outlawed*, put out of the *protection* of the Laws and of the *King*, executor of the law, for refusing to recognize the *authority* of the law. Is such an individual

The Americans no more out of his Majesty's protection than *outlaws*; not released from alle-

released

ARTICLE
XXIII.

giance; may
re-enter un-
der the pro-
tection of
the King.

released from his allegiance? Does the King, in withdrawing his protection, renounce his authority? It cannot be pretended. The cases are exactly alike:—The parallel holds throughout. The outlaw may submit to the authority of the law; may obtain a reversal of his sentence; may re-enter under the protection of the King. The Americans have only to return to their allegiance; and by that very return they are reinstated under the protection of the King.

War no more
waged a-
gainst them,
than by the
Sheriff, at
the head of
the *posse comi-
tatus*, a-
gainst *ri-
oters*.

How is war waged against them? Individuals who resist the law, are punished by individual officers; when numbers resist, numbers must be sent to punish; if they who resist take up arms, those who are to punish must likewise arm. If it flatter their pride, they may call this "*waging war against them.*" With as much reason may the Sheriff be said to *wage war against rioters*, whom he summons the *posse comitatus* to quell; against *malefactors*, whom he orders the *constables* to conduct to punishment.

ARTICLE
XXIV.

ARTICLE XXIV.

HE has plundered our seas; ravaged our coasts; burnt our towns, and destroyed the lives of our people.

ANSWER.

Kid might
with the
same reason
have com-

THE answer to the last Article is an answer to this. To plunder his Majesty's stores; pillage his magazines;

zines; seize his fortresses; burn his ships; destroy the property of his subjects; torture his officers; invade and pillage his peaceful provinces; were the trifling—or, as the Congress would probably word it,—the *pretended*—offences, which brought on the Americans the Acts of severity, to which this Article alludes. With as good a grace then, I conceive, do they complain of their towns being burnt, and their lives destroyed, as their ancient ally, the well known *Kid*, might have complained of his ships being seized, and his self and trusty companions, consigned to the hands of justice.

ONE difference indeed there is between the present rebels, and the ancient pirate; the latter did not adopt the *regal stile*. He did not talk of *our* seas, *our* coasts, *our* towns, and *our* people. Had he bethought him of that expedient, he would have risen in estimation and in *rank*: Instead of the guilty pirate, he would have become the *independent* prince; and taken among the “*maritime*” powers—“*that separate and equal station, to which*”—he too might have discovered—“*the laws of nature and of nature’s God entitled him.*”

ARTICLE
XXIV.

plained of
the seizure
of his ships,
&c.

Had *Kid*
adopted the
regal stile,
he too might
have risen
to the rank
of an inde-
pendent
Prince.

ARTICLE XXV.

ARTICLE
XXV.

HE is at this time transporting large armies of foreign mercenaries to complete the works of death, desolation and tyranny already begun with circumstances of cruel-

ty

ARTICLE
XXV.

ty and perfidy, scarcely paralleled in the most barbarous ages; and totally unworthy the head of a civilized nation.

A N S W E R.

To employ foreign troops, if a matter of choice, a mark of tenderness to the British subjects, and no mark of extraordinary severity to the Americans.

THAT his Majesty should employ *foreign* troops in the reduction of his rebellious subjects in America; that endeavouring to bring them back to their duty, he should expose as little as might be, the lives of his loyal subjects in Britain, were it a matter of choice, would be a mark of his paternal tenderness for us; and surely no mark of extraordinary severity to them. Of all wars, civil wars have generally been attended with the greatest acts of ferocity; the bitterest enemy is brother fighting against brother.

Not a matter of choice. In all our late wars, foreign and domestic, foreign troops employed. In bringing about the Revolution; in suppressing the rebellions in Ireland and Scotland. During the last war, that Britons might fight for the Americans.

THE truth however is; it was *not* a matter of choice. So small is the ordinary establishment of the British army, that there has not been a war, *foreign* or *domestic*, within the memory of us or our fathers, where foreign troops have not been employed. Foreign troops were employed in bringing about the *Revolution*; foreign troops were employed, after the Revolution, in suppressing the rebellion in *Ireland*; foreign troops were employed, since the accession of the House of Hanover, in suppressing the rebellions in *Scotland*. During the last war foreign troops were employed, that *Britons* might shed their blood in support of these ungrateful Americans; might sacrifice their own lives in driving from their backs an enemy, who from their first establishment, had kept them in perpetual alarm.

THAT his Majesty should *pay* the troops he employs, is, I presume, no crime: Whether they be foreign, or domestic, they must be paid. Troops receiving pay, are said to be *mercenaries*; whether the troops then be foreign or domestic, mercenaries they *must* be. Are not the troops of the Congress under the same predicament? Are *they* not mercenaries? Does not the Congress pay them? The Congress will not, I suppose, take merit to itself, that instead of solid metal, it pays with *fleeing paper*.

ARTICLE
XXV.

Troops, foreign or domestic, must be paid; must be mercenaries.

The troops of the Congress under the same predicament.

THAT from the shock of contending armies *death* and *desolation* should ensue, however to be lamented, is hardly, I doubt, to be avoided.

From the shock of contending armies, death, &c. will ensue. If there be any guilt in employing foreign troops, it must consist in the ends for which they are employed.

To what then are these high sounding words—of “foreign armies”—of “mercenaries”—of “death and desolation,”—reduced? The guilt, if any guilt there be, must consist in the ends, for which these armies are employed; most certainly it consists not in the circumstance of their being *foreigners* or *mercenaries*, or *killing* those who attack them, or *being killed by them*.

FOR what end are they employed? To the view of an Englishman, that end would appear to be—the suppression of a *Rebellion*: To the understanding of an Englishman no end could appear more lawful. Were that Rebellion on the borders of the Tweed, an American, a President of the Congress, would, without hesitation, pronounce the suppression of it, by whatever force, to be lawful. Not so when Rebellion stalks along the shores of the Atlantic: What in the former case would be the lawful exercise of a lawful power, “becomes in this—*tyranny—perfidy—cruelty*.” So says the Congress.

That end the suppression of the rebellion, called by the Congress, tyranny, perfidy, cruelty.

ARTICLE
XXV.No proof of
tyranny al-
leged.

THE troops were sent, we are told, to *complete* the work of tyranny: The proofs of tyranny, if a plan of tyranny were formed, must therefore have *preceded* the sending of the troops. Not a single proof has the Congress alleged of it. All the facts, or pretended facts, they have submitted as proofs, have been examined. Of these, some have appeared to have existed only in their own imagination; the rest are regular Acts of Government; the exercise of acknowledged powers.

Nor of
cruelty.Acts of
cruelty on
the part of
the Rebels:
New kinds
of torture
invented.

WHAT are the circumstances of *cruelty*? To *allege* the charge is not to *prove* it. To allege it without adducing a single fact in support of it, is surely to *disprove* it, is to acknowledge that no proofs can be found. By the rebellious party it is notoriously and strictly true, that "the works of death and desolation and tyranny were begun," upon his Majesty's innocent and loyal subjects, *before any foreign* troops were sent; before the *idea* of sending them was suggested; before his Majesty's troops had committed any hostilities:—Begun with circumstances of cruelty, utterly unparalleled. It were endless to cite examples of cruelty shewn to individuals; to swell the paper with a recital of the cruelties offered to a Rivington^t, a Malcolm,

Case of
Rivington,
in 1775.

^t In the New-York Gazetteer of November 2, 1775. Mr. Rivington inserted at length, the preface to a book, entitled, "Remarks on the principal Acts of the thirteenth Parliament," together with a plan of reconciliation proposed at the end of that work. He said not a word in praise or dispraise, either of the work in general, or of that part of it which he laid before the public. He took on his self only to name the author, and to add—"that the work had been much read in England"—This insertion gave violent offence to the democratic party. In his Paper of the sixteenth of the same month, he inserted the conciliatory motion made by Lord North in the House of Commons, on the 20th of February

1775;

Malcolm^u, a Harrison^v, a Roome^z, to the Proprietors of the Hospital at Marble-Head^y; to the Negro Pilot

ARTICLE
XXV.

1775; together with the arguments which his Lordship was said to have adduced in support of it. He inserted an address presented to his Majesty in the month of September, by the Gentlemen, Clergy, and Inhabitants of the town of Manchester. He inserted an account of the success with which Major Boyle had met in raising recruits: He inserted a letter on modern Patriotism. He inserted a list of the troops employed and paid by Great Britain, during the last war; together with a private letter from London on the strength and resources of Great Britain. These Articles were, for the most part, transcribed from English News papers. In his paper of November 23, Mr. Rivington inserted a letter, tending to take off the weight of the conclusions which might be drawn from his former insertions, in *favour* of Great Britain and *against* America. Notwithstanding this proof of his impartiality, on the same day, seventy-five of the Connecticut light-horse, surrounded and entered his house, with bayonets fixed, at noon-day, totally destroyed all his types, and stock, and reduced him, at near sixty years of age, to begin the world again. The astonished people beheld this scene without offering any assistance to the persecuted printer. At the foot of the Gazetteer, published that day, he added in manuscript, an account of these proceedings; which he concluded by saying, "That the New-York Gazetteer must be discontinued till America should be blessed with the restoration of a good government." For this last phrase he was threatened publicly with assassination, unless he quitted the Province.

^u This Mr. Malcolm had a small place in the customs.—Insulted in the streets, during the winter in 1772, he threatened to strike the person who insulted him. He was soon after dragged out of his house, stripped, haltered, carted for several hours in the severest frost; whipt with a severity never inflicted by the most unfeeling executioner in a civilized country: and at last, under the gallows, tarred and feathered. The transaction passed in the presence of thousands of applauding spectators:—*Some of them members of the General Court.* The unfortunate man, contrary to all expectation, survived this inhuman usage. He presented a memorial to the General Assembly; praying their interposition. The memorial was read:—And he obtained—*What?—leave to withdraw it.*

Case of
Malcolm,
in 1772.

^w A smuggling vessel, belonging to Hancock, was seized by the Custom-house officers, on the 10th of June 1768. A mob was immediately raised, the officers insulted, their houses assailed, a boat belonging to the Collector,

Case of
Harrison in
1768.

ARTICLE
XXV.

No proof of
tyranny al-
leged.

THE troops were sent, we are told, to *complete* the work of tyranny: The proofs of tyranny, if a plan of tyranny were formed, must therefore have *preceded* the sending of the troops. Not a single proof has the Congress alleged of it. All the facts, or pretended facts, they have submitted as proofs, have been examined. Of these, some have appeared to have existed only in their own imagination; the rest are regular Acts of Government; the exercise of acknowledged powers.

Nor of
cruelty.

Acts of
cruelty on
the part of
the Rebels:
New kinds
of torture
invented.

WHAT are the circumstances of *cruelty*? To *allege* the charge is not to *prove* it. To allege it without adducing a single fact in support of it, is surely to *disprove* it, is to acknowledge that no proofs can be found. By the rebellious party it is notoriously and strictly true, that "the works of death and desolation and tyranny were begun," upon his Majesty's innocent and loyal subjects, *before any foreign* troops were sent; before the *idea* of sending them was suggested; before his Majesty's troops had committed any hostilities:—Begun with circumstances of cruelty, utterly unparalleled. It were endless to cite examples of cruelty shewn to individuals; to swell the paper with a recital of the cruelties offered to a Rivington^t, a Malcolm,

Case of
Rivington,
in 1775.

^t In the New-York Gazetteer of November 2, 1775. Mr. Rivington inserted at length, the preface to a book, entitled, "Remarks on the principal Acts of the thirteenth Parliament," together with a plan of reconciliation proposed at the end of that work. He said not a word in praise or dispraise, either of the work in general, or of that part of it which he laid before the public. He took on his self only to name the author, and to add—"that the work had been much read in England"—This insertion gave violent offence to the democratic party. In his Paper of the sixteenth of the same month, he inserted the conciliatory motion made by Lord North in the House of Commons, on the 20th of February

1775;

Malcolm ^v, a Harrison ^w, a Roome ^x, to the Proprietors of the Hospital at Marble-Head ^y; to the Negro Pilot

ARTICLE
XXV.

1775; together with the arguments which his Lordship was said to have adduced in support of it. He inserted an address presented to his Majesty in the month of September, by the Gentlemen, Clergy, and Inhabitants of the town of Manchester. He inserted an account of the success with which Major Boyle had met in raising recruits: He inserted a letter on modern Patriotism. He inserted a list of the troops employed and paid by Great Britain, during the last war; together with a private letter from London on the strength and resources of Great Britain. These Articles were, for the most part, transcribed from English News papers. In his paper of November 23, Mr. Rivington inserted a letter, tending to take off the weight of the conclusions which might be drawn from his former insertions, in *favour* of Great Britain and *against* America. Notwithstanding this proof of his impartiality, on the same day, seventy-five of the Connecticut light-horse, surrounded and entered his house, with bayonets fixed, at noon-day, totally destroyed all his types, and stock, and reduced him, at near sixty years of age, to begin the world again. The astonished people beheld this scene without offering any assistance to the persecuted printer. At the foot of the Gazetteer, published that day, he added in manuscript, an account of these proceedings; which he concluded by saying, "That the New-York Gazetteer must be discontinued till America should be blessed with the restoration of a good government." For this last phrase he was threatened publicly with assassination, unless he quitted the Province.

^u This Mr. Malcolm had a small place in the customs.—Insulted in the streets, during the winter in 1772, he threatened to strike the person who insulted him. He was soon after dragged out of his house, stripped, haltered, carted for several hours in the severest frost; whipt with a severity never inflicted by the most unfeeling executioner in a civilized country: and at last, under the gallows, tarred and feathered. The transaction passed in the presence of thousands of applauding spectators:—*Some of them members of the General Court.* The unfortunate man, contrary to all expectation, survived this inhuman usage. He presented a memorial to the General Assembly; praying their interposition. The memorial was read:—And he obtained—What?—*leave to withdraw it.*

Case of
Malcolm,
in 1772.

^w A smuggling vessel, belonging to Hancock, was seized by the Custom-house officers, on the 10th of June 1768. A mob was immediately raised, the officers insulted, their houses assailed, a boat belonging to the Collector,

Case of
Harrison in
1768.

ARTICLE
XXV.

Pilot at Charles Town^z; to thousands and thousands of others, who might be named. Such adepts are they in the art of torturing, that they have invented new kinds of cruelties; cruelties unknown even to the savage executioners of an inquisition.

Collector, burnt in triumph. Mr. Harrison, the Collector, an old man, of an irreproachable character, was pelted with brick-bats, from one of which he received a contusion in his breast; under the ill effects of which, he languished for more than twelve months. The Governor pressed the Council for their advice and assistance in securing the rioters, but they declined it: stilling the riot, "*only a bruise.*"

Case of Mr.
Roome.

* Mr. Roome, *not a native of America*, was sent in the year 1767, from London to Rhode-Island, to sue for, and collect, large outstanding debts. This poor man, in a familiar letter to a friend in the *same Province*, expresses a just indignation at the difficulties he had to encounter in the execution of his trust; difficulties arising from the iniquitous tendency of the Provincial Laws, and the partial proceedings of the Provincial Courts; all calculated to delay, or defraud, the English creditors. The private letter was among those stolen and sent back to America, by Dr. Franklyn. On the receipt of it Mr. Roome was brought before the Assembly and thrown into prison, where he continued some months.

Case of the
proprietors
of the Hos-
pital at
Marble-
Head.

† A suspicion arose that infection had been communicated from a Hospital, erected at Marble-head, for the purpose of inoculation. The mob—usual administrators of justice in that unhappy country—arose, burnt the Hospital; threatened to burn the houses of the proprietors; and continued parading the streets for several days; menacing a general massacre and devastation. The injured parties applied to the General Assembly.—A Committee was ordered to repair to Marble-head, report the facts and inquire into the causes. The Committee reported the facts, nearly as stated in the petition; The report was received; and—*nothing farther done by the Assembly.*

Case of the
Negro Pilot
at Charles
Town.

‡ On the 18th of August 1775, before any hostilities begun, or were even threatened there, they executed a Negro Pilot at Charles Town, who had saved near a thousand pounds sterling by his industry, under the false pretence of his having introduced arms and ammunition among the slaves. So groundless was the accusation, that the Judges made a solemn report of the incompetency of the evidence against him. In vain did the Governor most earnestly endeavour to save him. These assassins threatened, that if he interposed, they would hang the Negro at his (the Governor's) own door.

TARRING

TARRING and *feathering*, a species of torture as repugnant to decency, as (with the outrages of which it has been made the prelude^a) it is shocking to humanity, is the undisputed right of the American rebels.

ARTICLE
XXV.

Tarring and
feathering.

GOOGING^b is another species of torture, of which the name, and the practice, are peculiar to their selves: Of their adroitness in inflicting it, more than one of the British soldiers at Lexington, are melancholy proofs.

Googing.

THE Congress must not tell us, that these are the outrages of the *mob*. They are not the exclusive acts of the persons by whose hands they were perpetrated, they are as properly the acts of *all the Assemblies*, lawful or unlawful, which in the provinces where they were perpetrated, have seized the executive power; they are the acts of the *authors of this audacious Declaration*; of these men who style their selves *the Congress*. Acts so notorious in their perpetration, so flagitious in their nature, *not to punish, is to countenance, approve, adopt*.— But in this I blame them not. They could not punish, knowing as they know, that it was only under the terror which such daring outrages inspired, that their rebellious enterprises could have any chance of success. How besides could they punish, as *bodies*, acts, of which, as *individuals*, so many of them had been *spectators, projectors, perpetrators*.

These no
more acts
of the mob
than of all
their As-
semblies; of
the Con-
gress.

OF acts of death and desolation committed under arms, who set the example? The first acts of hostility

The first
acts of hos-
tility com-
mitted by
the rebels,

^a Such as carting, whipping, haltering, &c.

^b This is a way of tearing the eyes out of the sockets,

ARTICLE
XXV.

Their cruelty at Lexington.

ty, by whom were they committed? The Americans.—The first trigger was drawn, the first musket was fired by *them*. They carried into the field the same thirst of torturing, which they had not been able to satiate in their towns. Their humanity is written in indelible characters with the blood of the soldiers *scalped* and *googed* at Lexington^c.

No act of *perfidy* on the part of Government,

BUT the Congress talks of circumstances of *perfidy*. What compacts have been violated by his Majesty, or his Parliament? This is tender ground. The Congress should not have touched it. *Perfidy* is a word that *should be erased from their vocabulary*.

Proof of the *perfidy* of the Congress,

CHARGES unsupported by proofs recoil on the accuser; I would not charge even rebels with *perfidy*, if I had not proofs. The affair of Cedres shall vindicate my charge,

Violation of the Cartel at Cedres,

An English Captain, of the name of Foster, at the head of about thirty regulars, with a party of Indians, surprised, defeated, and took a detachment of about five hundred and ten men, under the command of one of Arnold's officers. Some Indians had fallen in the attack; to their manes their countrymen proposed to sacrifice, *some at least* of the prisoners. Captain Foster humanely interposed; his eloquence, seconded by presents to a considerable amount, prevailed; the unhappy victims were saved; all but *one*, who in spite of *his* endeavours *fell*. Not having men enough of his own to guard them; fearful of exposing them to the return of Indian resentment; apprehensive that in the case of being attacked, necessity might be urged not only to justify, but to *compel* the putting of them to death, Captain

^c See General Gage's account of the skirmish at Lexington.

Foster embraced the generous resolution of *setting them free*. Attentive, however, to the good of his Majesty's soldiers, as well as tender to the sufferings of rebels, he expressly stipulated, that *an equal* number of English and Canadians made prisoners at St. John's, should be returned to Canada as quick as possible. For the performance of this stipulation, four of the principal officers of the rebels remained as hostages. The cartel was communicated to Arnold. By Arnold it was approved and ratified. He sent a copy of it to the Congress. If any convention *can be sacred*, this surely is that convention. If any act deserve the name of *perfidy*, the breach of such a convention is surely that act; yet this virtuous Congress, who decry tyranny in the exercise of a regular Government; cruelty in forbearance, and perfidy in the observance of law; signified by a flag of *truce*, as they call it, in terms of the utmost insolence, to General Burgoyne, their *refusal to comply with the engagement, or return the prisoners*, threatening if the hostages be touched, to sacrifice the English, who by the cartel ought to have been given in exchange. Alleging in excuse, the death of *one man*, who was killed *before the cartel was accepted, or even proposed*.

ARTICLE
XXV.

AND shall the Congress after this declaim against the rule of warfare of the Indian savage? At the bare mention of such a perfidy as this, a deeper dye would tinge the savage cheek than their own paint could stain upon it. What will be the probable consequences of this *perfidious* violation of the law of war? Indians whom, as we shall see hereafter, *the Congress first engaged in this dispute*—Indians claim a property in their prisoners; their property in the rebels taken pri-

The blood of all the prisoners hereafter slaughtered will be required at the hands of the Congress.

**ARTICLE
XXV.**

soners at Cedres, was purchased by the *King's officer*, with the *King's money*. The condition of the purchase was stipulated to be the liberty of an equal number of loyal troops. That condition is violated with insolence, with perfidy. In the course of this contest, should it again happen that rebels fall into the hands of Indians, who will pay their ransom, what officer will think his self at liberty to advance the money of the King, only to rivet the chains of the soldiers of the King? Whatever be the known rule of Indian warfare, the *Congress has pronounced* that the rule shall be followed with the utmost severity. If the horrors of battle be rendered tenfold more horrible by the deliberate sacrifice of the prisoners, the *Congress has commanded* that it shall be so. Should prisoners hereafter be slaughtered; at the hands of the *Congress* will their blood be required.

**ARTICLE
XXVI.****ARTICLE XXVI.**

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

ANSWER,

A N S W E R.

To urge the *alleviation* of *punishment* as a proof of *tyranny*, is a piece of folly reserved to the American Congress. These "fellow-citizens taken captive on 'the high seas'—What are they? In the eye of the *captors*, what are they? *Rebels*. What is the punishment denounced against rebels by the law of *captors*? Death, forfeiture of goods, corruption of blood. Instead of this, what is the punishment inflicted by the Act against which this article complains? To serve on board his Majesty's fleet. It is not even added that they shall serve in *America*; that they shall bear arms against the partners of their guilt.

The alleviation of punishment urged as a proof of tyranny,

WITH what indignation must this article be read when it is known, that what is here imputed to his Majesty as excessive severity against *rebels*, has been inflicted by the members of this very Congress on numbers of our own fellow-citizens, innocent even in the eyes of that Congress! It is known with what zeal the agents of the Colonists have, of late years, been employed in inveigling citizens and labourers to go to *America*. Numerous are the Scotch and Irish emigrants who have gone thither on the faith of engagements that they should be *free*, and encouraged to exercise their *respective trades*. These men were innocent in the eyes of the Congress. To the Members of it, they owed no obedience; from them they had received no benefit. Yet it is the boast among the *Rebels*, that on their arrival *there*, instead of obtaining the peaceful settlements they had been promised, these unhappy men were compelled "to bear arms

What is reprobated as an act of severity in his Majesty against *rebels*, inflicted by the Congress on men allowed to be innocent.

" against

**ARTICLE
XXVI.**

“ against their country ; to become the executioners
 “ of their friends and brethren, or to fall their selves
 “ by their hands.”

**ARTICLE
XXVII.****A R T I C L E XXVII.**

He has excited domestic insurrections among us ; and has endeavoured to bring on the inhabitants of our frontiers the merciless Indian Savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

A N S W E R.

Two charges contained in this Article. The exciting domestic insurrections, and the employing of Indians.

THE article now before us consists of two charges, each of which demands a separate and distinct consideration. The one is, that his Majesty—“ has “ excited domestic insurrections among them ;” the other—“ that he has endeavoured to bring on the “ inhabitants of their frontiers the merciless Indian “ Savages.”

Among whom were domestic insurrections excited ?

By his Majesty, in the first charge, is meant—not his Majesty, but—one of his Majesty’s Governors. He, it seems, excited *domestic insurrections* among *them*—Be it so—But who are meant by *them* ? Men in rebellion ; men who had excited, and were continuing to excite, civil insurrections against his

his Majesty's government; men who had excited, and were continuing to excite, one set of citizens to pillage the effects, burn the houses, torture the persons, cut the throats of another set of citizens.

ARTICLE
XXVII.

BUT how did his Majesty's Governors excite domestic insurrections? Did they set father against son, or son against father, or brother against brother? No—they offered *freedom* to the *slaves* of these assertors of liberty. Were it not true, that the charge was fully justified by the necessity, to which the rebellious proceedings of the Complainants had reduced the Governor, yet with what face can *they* urge this as a proof of tyranny? Is it for *them* to say, that it is tyranny to bid a slave be free? to bid him take courage, to rise and assist in reducing his tyrants to a due obedience to *law*? to hold out as a motive to him, that the load which crushed his limbs shall be lightened; that the whip which harrowed up his back shall be broken, that he shall be raised to the rank of a freeman and a citizen? It is their boast that they have taken up arms in support of these their own *self-evident truths*—"that all men are *equal*"—"that all men are "endowed with the *unalienable* rights of life, liberty, and the *pursuit of happiness*." Is it for *them* to complain of the offer of *freedom* held out to these wretched beings? of the offer of reinstating them in that *equality*, which, in this very paper, is declared to be the *gift of God to all*; in those *unalienable rights*, with which, in this very paper, God is declared to have *endowed all mankind*?

By exciting domestic insurrections, is meant offering freedom to slaves.

WITH respect to the other measure, the attempt—and it has been more than an attempt—to engage the Indians against them—Were it necessary, I should be bold

The engaging of Indians a justifiable measure?

ARTICLE
XXVII.

because
force being
necessary,
that force
which is
most easily
to be pro-
cured, and
most likely
to be *effec-
tive*, ought
to be em-
ployed.

And because
it is only
letting loose
an enemy
whom we
had restrain-
ed, we had
encountered
in defence
of the Ame-
ricans.

But this was
not a volun-
tary act of
his Majesty.
The Con-
gress first
engaged the
Indians.

No Indians
appeared on
the side of
Govern-
ment till
the year
1776. In
the north-
ern Colo-

bold enough to avow—what, I believe, has already been said by some one upon this subject—“ That since
“ force is become *necessary* to support the authority of
“ Parliament, that force which is most *easily* to be
“ procured, and most likely to be *effective*, is the force
“ *which ought to be employed*.” I should be bold enough
to avow, that to me it would make little difference,
“ whether the instrument be a German or a Calmuck,
“ a Russian or a Mohawk.”

SHOULD the force of prejudice be too strong to yield to this defence, were it necessary we might have recourse to another consideration. We might urge, that after all, we are only letting loose on them an enemy whom *we* had hitherto restrained; an enemy from whom, but by *our* protection, they would never have been delivered; an enemy whom, in *their* defence, we oft-times have encountered.

ON these grounds we might, I think, safely rest the defence of the second charge contained in this Article. But the truth is, we are not compelled to defend it on this ground. How merciless soever the *Indian Savages* may be, how *destructive* soever be their known rule of *warfare*, it is the height of insolence in the Congress to complain that they are invited to join us: It is the basest hypocrisy to impute it to his Majesty, as a *voluntary* act of severity—because—and this reason, I think, admits of no reply—the *Congress were the first to engage the Indians in this dispute*.

THE Congress knows this assertion to be true. It was not till the affair of Cedres, that is, till the year 1776, that any Indians appeared on the side of Government. It was early in the year 1775, that the Rebels surprised Ticonderoga; made incursions and committed

committed hostilities in the frontiers of his Majesty's province of Quebec; a province at that time in *peace*.

Now the Members of the Congress cannot deny that *then*, at that very time, they had not barely engaged, but had *brought down as many Indians as they could collect* against his Majesty's troops in New England, and the northern Provinces.

NOR were they less industrious or less tardy in bringing down the Indians into the southern Colonies; for at the same time, namely, early in the year 1775, the Committee of Carolina deputed six persons to treat with the *Creek and Cherokee Indians*. Were it necessary I could name them. Sir James Wright, Governor of Georgia, and Mr. Stuart, superintendent for his Majesty in the Cherokee nation, had been driven, the one from his usual place of residence, the other out of the Province. One person still remained, Mr. Cameron, the deputy superintendent in the Cherokee nation: He was in their way; his presence impeded the treaty they wished to form with the Cherokees; obstructed measures which, imputed to his Majesty, they call the height of cruelty, but adopted by their selves, become only, in their own language, "*means of defence*." He therefore was considered as an object that was at any rate to be removed. The deputies of the Committee requested, or, as their selves explained it, "*commanded*," him to retire. He not obeying their orders, one of the deputies, accompanied by two independent preachers^e, after having gone through the interior and back parts of Carolina and Georgia, on the *pious mission* of haranguing and incit-

^e Their names are *Hart and Tenant*: Such pious pastors should be known,

ARTICLE
XXVII.

nies, the
Rebels had
actually
brought
down In-
dians in the
year 1775.

At the same
time, viz.
in the year
1775, they
sent depu-
ties to en-
gage the In-
dians in the
southern
Provinces.

And at-
tempted to
engage af-
fairs to
murder his
Majesty's
superintend-
ent in the
Cherokee
nation.

ing

ARTICLE
XXVII.

In the attempt on Tybee Island they employed Indians, and dressed their own party as Indians, and scalped the wounded.

ing the people to rebellion, dispatched an emissary^f to give and receive Talks from the Indians, and to endeavour to bring them down upon his Majesty's troops; and as Mr. Cameron was still in their way, their emissary was directed to raise the Indians and seize him; and if that could not be done, to offer a considerable reward to any *individual* that would *privately shoot him from behind a bush, and then escape into the settlements.*

EARLY in the beginning of the present year^g, an attempt was made on Tybee Island, where the Rebels expected to find the Governor of Georgia, with several officers and gentlemen. Happily they were not there. Had they been there, we may judge of the treatment they would have received by that which was actually inflicted on some mariners and a ship-carpenter, whom the Rebels did surprise there. One of them was killed; three mortally wounded. The first died, *not of the wounds he received in the attack, but under the cruel torture of the SCALPING knife.* So far were these troops of the Congress from being averse to employ the Indians, that they not only brought Indians with them, but determined, as we see, to adopt their *known rule of warfare*; the whole party of Rebels were dressed and painted like Indians.

YET these men can, without a blush, impute it to the King as a *voluntary* act of severity, that his Majesty has engaged the Indians.

^f His name is Richard Pearis.

^g On the 25th of March.

ARTICLE XXVIII.

ARTICLE
XXVIII.

IN every stage of these oppressions we have petitioned for redress in the most humble terms; our repeated petitions have been answered only by repeated injury.

A N S W E R.

VERY different are the ideas which seem to be attached to the same terms on this side of the Atlantic and on the other. *Here* Acts of Parliament are Acts of the Legislature, *acknowledged to be supreme*; *there* Acts only of pretended legislation, of *unacknowledged* individuals. *Here* treason is an offence of the most *atrocious* nature; *there* only a *pretended* offence. *Here* to deny the authority of Parliament is the utmost height of *audacity*; *there* it is the lowest pitch of *humility*.

Difference
of the ideas
attached to
the same
terms here
and in Ame-
rica.

THIS distinction it was necessary to make, before we could come at the meaning of this article. The reader might otherwise have imagined, that in the resolutions of the American Assemblies, in their addresses to the good people of England, in their Petitions to the King or the Parliament, the authority of Parliament, and their own just and constitutional subordination to it, had been recognised, and the undisputed prerogative of the Crown allowed; that specific demands of what would satisfy them had been made, and specific offers of what they would do had been tendered. It might otherwise require more than common discernment to

Difference
between an
humble Pe-
tition for
redress, and
a claim of
independ-
ence.

ARTICLE
XXVIII.

find out the *humility* of their Petitions : what they call a Petition for *Redress*, would still pass in the eyes of men of common understanding for a claim of *independence*.

If the Chiefs of the rebellion had ever meant to express their selves in terms of humility, it would have been at the Congress 1774. 1st, Because hostilities were not then begun.

2dly, Because to effect a reconciliation was the avowed object of that Congress.

To go through the proceedings of all their Assemblies, to cite all their Resolutions, Addresses, and Petitions, would be to the reader, as well as to the writer, unspeakably irksome. Let us then begin by the proceedings of that Congress which sat in seventy-four. At *that* time hostilities were not begun, at least on the part of the Crown. So far from it, that the Congress expressed its *surprise* at the steps, which the appearance of hostility on the part of the Provincials compelled the Commander of his Majesty's forces to take, for the purpose, *not of attacking them, but securing his own troops from being attacked*. Besides, the professed object of that Congress, as their selves declare it, in a letter to General Gage, was "by the pursuit of dutiful and peaceable measures, to procure a cordial and effectual reconciliation between Great Britain and the Colonies." If ever, it must be then, when they were assembled with this design, that their language would be decent and humble, their proposals candid and explicit. If *there* we find no traces of humility or candour, it would be folly in the extreme to look for it thereafter.

By this Congress the legislative power of Parliament and the known prerogative of the Crown declared to be grievances.

Now as well in the Resolves, as in the Addresses and Petitions of that Congress, the legislative power of Parliament, and the known prerogative of the Crown are declared to be *grievances*. In contradiction to what we have seen to be the constant course of government, they deny the right of the Crown to station the troops in such part of the empire as in its wisdom

it shall see fit; they deny the authority of Parliament to make *any law*, relating to their *internal policy*, or to *taxation internal or external*; points on which they claim the *exclusive* right of legislature to their own Assemblies. In all *humility* they resolved, that the open resistance shewn to the legislative power of Parliament, by the inhabitants of Boston; that all the outrages by which that resistance was manifested and attended—such as destroying the property of his Majesty's British subjects, seizing his stores, burning his magazines, torturing his officers, shutting up the Courts of Justice, were most *thoroughly to be approved*, ought to be *supported* by the *united efforts* of *North America*, to be kept alive by *contributions from all the Colonies* ^a.

THESE are the *humble Petitions* to which this article alludes. What return could by any Government be made to them, we may leave to any man to determine who knows what government is. But they petitioned for *redress*. Their grievances we see they state in very comprehensive terms; so comprehensive, as to take in every Act of Government. Were the offers of what they were ready to do more precise and explicit? What motives did they hold out to induce the King and Parliament to give up so large a portion of an authority, hitherto undisputed? They very gravely assured his Majesty, that *they had always been as submissive and as dutiful as they ought to be*; that they *would hereafter be just as submissive and as dutiful as they had been*; that moreover in complying with their demands, he would obtain the inestimable advantage of—what?—“seeing *all jealousies removed*;²—that is—if he would take away every trace of their subordination to his self and

ARTICLE XXVIII.

The open resistance shewn to the legislative power of Parliament by the people of Boston, and all the outrages that attended it, were thoroughly approved, and declared worthy of general support.

Nothing offered on their part.

^a See the printed Journal and proceedings of this Congress.

ARTICLE
XXVIII.

Parliament, they would not complain of his authority; if neither he, nor his Parliament would exercise any power over them; they would not be jealous of his power or that of Parliament.

They ought precisely to have stated what they wanted, and what they were ready to submit to.

It is for malcontents, persons who profess their selves dissatisfied, to state precisely what it is with which they are dissatisfied; what it is that will content them; what it is to which they are willing to submit. They know it for certain, at least they ought to know it; is it not for them then to declare it, to declare their own feelings, what passes in their own breasts? Or is Government, who does not know it, cannot know it, to torture itself to divine it?

This not done, yet Parliament made the first advances towards a reconciliation.

THIS was not done; and yet so far was the British Government "from answering,"—as the Congress words it,—“their repeated Petitions, by repeated injuries;” that it made the *first advances*, actually held out terms of accommodation. These terms were submitted to the consideration of the respective Assemblies; and who would think it?—these Assemblies so tremblingly alive to every the gentlest touch of their rights by the King or Parliament, declared without reserve, and without a blush, that *all* their powers were absorbed by a body unknown to their laws,—by a Congress. To that Congress then which sat in 1775, they referred it to consider of the terms held out to them. By these *humble Petitioners* how were the terms received?

Manner in which these advances were received by these humble Petitioners at their Congress in 1775.

THE Parliament was declared to be “*a body of men extraneous to their constitution.*” The proposition held out by Parliament, was declared to be “*insidious and unreasonable;*” the requisition to furnish “*any contribution, any aid, under the form of a tax,*” was declared to be “*unjust.*”

"*unjust.*" The "*intermeddling,*"—as it was respectfully called,—"*of the British Parliament, in their provisions for the support of the civil government, or administration of justice,*" was declared to be "*contrary to right.*" The reason for this last assertion was added, and was such as concluded against the whole power of Parliament—"That the provisions already made pleased *their selves*!"

Is this the language of subjects *humbly petitioning for redress*? Of men, who profess their selves members of one large empire, and subordinate in any degree, to the supreme controlling body of that empire? or is it the language of one independent state to another?

COULD any doubt arise in the mind of any candid man, whether independence had, or had not, been all along the determined object of the leading men in America, he would have only to peruse the printed proceedings of these two Assemblies, which sat under the title of Congresses ^k.

IN the first, they professed to desire nothing more ardently, than that some mode might be adopted of hearing and relieving their griefs, some proposition held forth which might be a ground of reconciliation. Dreading, meanwhile, nothing so much as the accomplishment of their *pretended* wishes, they throw into their Votes and Addresses, and Petitions, terms expressive of the highest contempt for the authority of Parliament, and of their firm resolution not to submit to the exercise of the undisputed prerogative of the Crown.

ⁱ See the proceedings of the Congress in 1775.

^k To their own account of the proceedings there, we may apply the words of Cicero, though in a different sense from that in which he used them, "*Quicumque hunc librum legerit, nihil amplius erit, quod desideret.*"

ARTICLE
XXVIII.

They then adopted the style of independent States.

The proceedings of these two Congresses irrefragably prove that they had already determined on independence. In the first, they offered no precise terms, and did all they vent any being offered,

**ARTICLE
XXVIII.**

They professed to ask only for "*Life, Liberty, and Property*." But when they came to explain their professions, it appeared, that by *property* they meant a total exemption from contributing any thing to the common burdens of the State; by *liberty*, a total manumission from the authority of Parliament, the Crown, or the Law; an entire abolition of all the customs of their ancestors, all the institutions of their forefathers.

When terms were offered, the consideration of them was referred by the Provincial Assemblies to the Congress;

WHEN, notwithstanding the insolence of this language, and in contradiction to their expectations, a mode of treating was proposed, terms of reconciliation were offered by Parliament; the consideration of them was rejected by the respective Provincial Assemblies legally established, and by them referred to an assembly unacknowledged by the laws; to the Congress.

and by that Congress treated with indignity.

To that Congress they were presented at the very beginning of their Session. Instead of being taken up directly, as surely might have been expected, considering the importance of the object, and the dignity of that august body from whom they originally came, they were laid aside; the Congress proceeded to vote a paper-currency, to seize the public revenues, to raise armies, to appoint officers, to suspend the courts of justice, and then,—at the close of the Session,—condescended at last to read the terms held out. No change, no modification, was proposed in them, but they were crudely rejected in the terms of disrespect and insolence and rancor, we have already cited.

Before the event of the Petition could be known, attributes of sovereignty assumed, acts of hostility committed.

BUT this is not all, men who petition in earnest for redress, will wait the event of their Petitions. The last Petition, addressed to the King, was drawn up in the month of August, and presented to the King in the month of September 1775. In the same month of

†

August,

August, *before* their Petition had *reached* the Throne, a boat belonging to the Asia was burnt at New York; two ships were seized by vessels fitted out in South Carolina. *Before* they could *hear* how their Petition had been received, St. John's was attacked, Montreal attempted, Canada invaded by Arnold, commissions issued by Washington to cruize on the ships of Great Britain, as against a foreign enemy; Courts of Admiralty appointed to try and condemn them as lawful captures.

ARTICLE
XXVIII.

CAN any man after this entertain a doubt whether they were determined on *independence*? Had an Angel descended from Heaven with terms of accommodation, which offered less than independence, they would have driven him back with hostile scorn.)

SHORT REVIEW
OF THE
DECLARATION



I have to confess that I have reviewed
and sifted the Declaration with a view
to support of the cause of liberty and
the principle of human rights. The
truth is, that of our time, the
of the modern American government, like that of
then good and just, and which would be too
certain to deliver us from the too
temptable and dangerous error of
in the most common error.
In this review, however, it is not that they attempt to
establish a new system of liberty, as against
and violence, as the system of liberty in defense of
which it is established. There is no such
maxim as liberty, as a justification of their entire
policy against the British Government. To those
maxims, which the British Government will be looking
to say, that they are responsible to the British Government.
But beyond this, they are responsible to the British Government
in general, and to the British Government in particular.
They are responsible to the British Government in general,
and to the British Government in particular.

SHORT REVIEW

OF THE

DECLARATION.

IN examining this singular Declaration, I have hitherto confined myself to what are given as *facts*, and alleged against his Majesty and his Parliament, in support of the charge of tyranny and usurpation. Of the preamble I have taken little or no notice. The truth is, little or none does it deserve. The opinions of the modern Americans on Government, like those of their good ancestors on witchcraft, would be too ridiculous to deserve any notice, if like them too, contemptible and extravagant as they be, they had not led to the most serious evils.

REVIEW.

Little notice hitherto taken of the preamble to the Declaration.

IN this preamble however it is, that they attempt to establish a *theory of Government*; a theory, as absurd and visionary, as the system of conduct in defence of which it is established, is nefarious. Here it is, that maxims are advanced in justification of their enterprises against the British Government. To these maxims, adduced for *this purpose*, it would be sufficient to say, that they are *repugnant to the British Constitution*. But beyond this they are subversive of every actual or imaginable kind of Government.

Maxims advanced in it repugnant to the British Constitution, and subversive of all Government.

THEY are about “*to assume,*” as they tell us, “*among the powers of the earth, that equal and separate*

Such as, that all men are created equal.

REVIEW,

"*station to which*"—they have lately discovered—"the laws of Nature, and of Nature's God entitle them." What difference these acute legislators suppose between the laws of *Nature*, and of *Nature's God*, is more than I can take upon me to determine, or even to guess. If to what they now demand they were entitled by any law of God, they had only to produce that law, and all controversy was at an end. Instead of this, what do they produce? What they call self-evident truths. "*All men*," they tell us, "*are created equal*." This surely is a new discovery; now, for the first time, we learn, that a child, at the moment of his birth, has the same quantity of *natural* power as the parent, the same quantity of *political* power as the magistrate.

That the rights of life, liberty, and the pursuit of happiness are unalienable.

THE rights of "*life, liberty, and the pursuit of happiness*"—by which, if they mean any thing, they must mean the right to *enjoy* life, to *enjoy* liberty, and to *pursue* happiness—they "*hold to be unalienable*." This they "*hold to be among truths self-evident*." At the same time, to secure these rights, they are content that Governments should be instituted. They perceive not, or will not seem to perceive, that nothing which can be called Government ever was, or ever could be, in any instance, exercised, but at the expense of one or other of those rights.—That, consequently, in as many instances as Government is ever exercised, some one or other of these rights, pretended to be unalienable, is actually alienated.

Maxims incompatible with their own conduct.

THAT men who are engaged in the design of subverting a lawful Government, should endeavour by a cloud of words, to throw a veil over their design; that they should endeavour to beat down the criteria between tyranny and lawful government, is not at all surprising.

surprising. But rather surprising it must certainly appear, that they should advance maxims so incompatible with their own present conduct. If the right of enjoying life be unalienable, whence came their invasion of his Majesty's province of Canada? Whence the unprovoked destruction of so many lives of the inhabitants of that province? If the right of enjoying liberty be unalienable, whence came so many of his Majesty's peaceable subjects among them, without any offence, without so much as a pretended offence, merely for being suspected not to wish well to their enormities, to be held by them in durance? If the right of pursuing happiness be unalienable, how is it that so many others of their fellow-citizens are by the same injustice and violence made miserable, their fortunes ruined, their persons banished and driven from their friends and families? Or would they have it believed, that there is in their selves some superior sanctity, some peculiar privilege, by which those things are lawful to them, which are unlawful to all the world besides? Or is it, that among acts of coercion, acts by which life or liberty are taken away, and the pursuit of happiness restrained, those only are unlawful, which their delinquency has brought upon them, and which are exercised by regular, long established, accustomed governments?

IN these tenets they have outdone the utmost extravagance of all former fanatics. The German Anabaptists indeed went so far as to speak of the right of enjoying life as a right unalienable. To take away life, even in the Magistrate, they held to be unlawful. But they went no farther, it was reserved for an American Congress, to add to the number of unalienable rights, that of enjoying liberty, and pursuing happiness;—

REVIEW.

They go beyond the madness of all other fanatics.

REVIEW.

ness;—that is,—if they mean any thing,—pursuing it wherever a man thinks he can see it, and by whatever means he thinks he can attain it:—That is, that all *penal* laws—those made by their selves among others—which affect life or liberty, are contrary to the law of God, and the unalienable rights of mankind:—That is, that thieves are not to be restrained from theft, murderers from murder, rebels from rebellion.

They allow Governments long established, should not be changed for light reasons.

HERE then they have put the axe to the root of all Government; and yet, in the same breath, they talk of “Governments,” of Governments “long established.” To these last, they attribute some kind of respect; they vouchsafe even to go so far as to admit, that “*Governments, long established, should not be changed for light or transient reasons.*”

Yet are changing a Government coeval with their existence, for no reason at all.

YET they are about to *change* a Government, a Government whose establishment is coeval with their own existence as a Community. What causes do they assign? Circumstances which have always subsisted, which must continue to subsist, wherever Government has subsisted, or can subsist.

Amount of their pretended grievances.

FOR what, according to their own shewing, what was their original, their *only original grievance*? That they were actually taxed more than they could bear? No; but that they were *liable* to be so taxed. What is the amount of all the *subsequent* grievances they allege? That they were *actually* oppressed by Government? That Government had *actually* misused its power? No; but that it was *possible* they might be oppressed; *possible* that Government might misuse its powers. Is there any where, can there be imagined any where, *that* Government, where subjects are not liable to be taxed more than they can bear?
where

where it is not possible that subjects may be oppressed, not possible that Government may misuse its powers?

REVIEW.

THIS, I say, is the amount, the *whole sum and substance of all* their grievances. For in taking a general review of the charges brought against his Majesty, and his Parliament, we may observe that there is a studied confusion in the arrangement of them. It may therefore be worth while to reduce them to the several distinct heads, under which I should have classed them at the first, had not the order of the Answer been necessarily prescribed by the order—or rather the disorder—of the Declaration.

Arrangement of them under their different heads.

THE first head consists of Acts of Government, charged as so many acts of *incroachment*, so many *usurpations* upon the present King and his Parliaments exclusively, which had been constantly exercised by his Predecessors and their Parliaments^a.

I.
Acts of Government charged as usurpations in the present reign which had been constantly exercised from the first establishment of the Colonies. All the Acts comprised in this head are the exercise of powers supposed to be constitutional, by the instructions given to the Commissioners of Trade in the reign of William III.

IN all the articles comprised in this head, is there a single power alleged to have been exercised during the present reign, which had not been constantly exercised by preceding Kings, and preceding Parliaments? Read only the commission and instruction for the Council of Trade, drawn up in the 9th of King William III. addressed to Mr. *Locke*, and others^b. See there what

^a Under this head are comprised articles I. II. so far as they are true, III. VII. IX. so far as the last relates to the tenure of the Judges' offices, XI. XII. XIII. XIV. XVII. XVIII. so far as the last relates to the establishment of Courts of Admiralty in general, and the causes, the cognisance of which is attributed to them. XIX. XXII. so far as the latter relates to the Declaration of the power of Parliament to make laws for the Colonies binding in all cases whatsoever.

^b See Com. Journ. vol. xii. p. 70, 71, 72.

REVIEW. powers were exercised by the King and Parliament over the Colonies. Certainly the Commissioners were directed to inquire into, and make their reports concerning those matters only, in which the King and Parliament had a power of controlling the Colonies. Now the Commissioners are instructed to inquire—into the condition of the Plantations, “as well with regard “to the *administration of Government and Justice*, as in “relation to the commerce thereof;”—into the means of making “them *most beneficial and useful to England*; —“into the *staples and manufactures, which may be encouraged there*;”—“into the *trades that are taken up “and exercised there, which may prove prejudicial to “England*;”—“into the means of *diverting them from “such trades*.” Farther, they are instructed “to *examine into, and weigh the Acts of the Assemblies of the “Plantations*;”—“to *set down the usefulness or mischief “to the Crown, to the Kingdom, or to the Plantations “their selves*.”—And farther still, they are instructed “to *require an account of all the monies given for public “uses by the Assemblies of the Plantations, and how the same “are, or have been expended, or laid out*.” Is there now a single Act of the present reign which does not fall under one or other of these instructions.

By usage
therefore
constitu-
tional.

THE powers then, of which the several articles now before us complain, are supported by usage; were conceived to be so supported *then*, just after the Revolution, at the time these instructions were given; and were they to be supported *only* upon this foot of usage, still that usage being coeval with the Colonies, their tacit consent and approbation, through all the successive periods in which that usage has prevailed, would be implied;—even then the legality of those powers would stand upon the same foot as most of the prerogatives

gatives of the Crown, most of the rights of the people;—even then the exercise of those powers could in no wise be deemed usurpations or encroachments.

REVIEW.

BUT the truth is, to the exercise of these powers, the Colonies have not tacitly, but *expressly*, consented; as expressly as any subject of Great Britain ever consented to Acts of the British Parliament. Consult the Journals of either House of Parliament; consult the proceedings of their own Assemblies; and innumerable will be the occasions, on which the legality of these powers will be found to be expressly recognised by Acts of the Colonial Assemblies. For in preceding reigns, the petitions from these Assemblies were couched in a language, very different from that which they have assumed under the present reign. In praying for the non-exercise of these powers, in particular instances, they acknowledged their legality; the right in general was recognised; the exercise of it, in particular instances, was prayed to be suspended on the sole ground of *inexpedience*.

On many occasions expressly recognised as such by the Colonial Assemblies.

THE less reason can the Americans have to complain against the exercise of these powers, as it was under the constant exercise of the self-same powers, that they have grown up with a vigour and rapidity unexampled: That within a period, in which other communities have scarcely had time to take root, they have shot forth exuberant branches. So flourishing is their agriculture, that—we are told—“besides feeding
“plentifully their own growing multitudes, their
“annual exports have exceeded a *million*.” So flourishing is their trade, that—we are told—“it has
“increased far beyond the speculations of the most
“sanguine

The effects of them beneficial

REVIEW. " sanguine imagination ^c." So powerful are they in arms, that we see them defy the united force of that nation, which, but a little century ago, called them into being; which, but a few years ago, in their defence, encountered and subdued almost the united force of Europe.

If the exercise of these powers can justify rebellion; no government can be established.

If the exercise of powers, thus established by usage, thus recognised by express declarations, thus sanctified by their beneficial effects, can justify rebellion, there is not that subject in the world, but who has, ever has had, and ever must have, reason sufficient to rebel: There never was, never can be, established, any government upon earth.

II.
Acts for the maintenance of the amendment of the Constitution.

THE second head consists of Acts, whose professed object was either the maintenance, or the amendment of their Constitution. These Acts were passed with the view either of freeing from impediments the course of their *commercial* transactions ^d, or of facilitating the administration of justice ^e, or of poising more equally the different powers in their Constitution ^f; or of preventing the establishment of Courts, inconsistent with the spirit of the Constitution ^g.

these, no power assumed.

To state the object of these Acts, is to justify them. Acts of *tyranny* they cannot be: Acts of *usurpation* they *are not*; because no new power is assumed. By former Parliaments, in former reigns, officers of *customs* had been sent to America: Courts of Admiralty had been established there. The in-

^c See Mr. Burke's speeches.

^d Article X.

^e Article XVIII. so far as it relates to the multiplication of the Courts of Admiralty.

^f Article XXI.

^g Article VIII.

crease of trade and population induced the Parliaments, under the present reign, for the convenience of the Colonists, and to obviate *their own objections* of delays arising from appeals to England, to establish a Board of Customs, and an Admiralty Court of Appeal. Strange indeed is it to hear the establishment of this Board, and these Courts, alleged as proofs of *usurpation*; and in the same paper, in the same breath, to hear it urged as a head of *complaint*, that his Majesty refused his assent to a much greater exertion of power:—to an exertion of power, which might be dangerous; the establishment of new Courts of Judicature. What in one instance he might have done, to have done in another, cannot be unconstitutional. In former reigns, charters had been altered; in the present reign, the constitution of one charter, having been found inconsistent with the ends of good order and government, was amended.

REVIEW.

THE third head consists of temporary Acts, passed *pro re natâ*, the object of each of which was to remedy some temporary evil, and the duration of which was restrained to the duration of the evil itself^h.

III.
Temporary
Acts.

NEITHER in these Acts was any new power assumed; in some instances only, the objects upon which that power was exercised, were new. Nothing was done but what former Kings and former Parliaments have shewn their selves ready to do, had the same circumstances subsisted. The same circumstances never did subsist before, because, till the present reign, the

Nor in these
was any new
power assumed.

^h Under this head may be classed Articles IV. V. VI. IX. so far as the last relates to the payment of the Judges by the Crown. XV. XXII. so far as the latter relates to the suspension of their legislatures.

REVIEW. Colonies never dared to call in question the supreme authority of Parliament.

Nor can they
come within
the class of
grievances;
why.

No charge, classed under this head, can be called a *grievance*. Then only is the subject aggrieved, when, paying *due obedience* to the established Laws of his country, he is not protected in his established rights. From the moment he withholds *obedience*, he forfeits his right to *protection*. Nor can the means, employed to bring him back to obedience, however severe, be called grievances; especially if those means be to cease the very moment that the end is obtained.

IV.
Acts of
self-defence.

THE last head consists of Acts of self-defence, exercised in *consequence* of resistance already shewn, but represented in the Declaration as Acts of oppression, tending to provoke resistance¹. Has his Majesty cut off their trade with all parts of the world? They first attempted to cut off the trade of Great Britain. Has his Majesty ordered their vessels to be seized? They first burnt the vessels of the King. Has his Majesty sent troops to chastise them? They first took up arms against the authority of the King. Has his Majesty engaged the Indians against them? They first engaged Indians against the troops of the King. Has his Majesty commanded their captives to serve on board his fleet? He has only saved them from the gallows.

¹ Under this head may be classed Articles XVI. XXIII. XXIV. XXV. XXVI. XXVII. Two other Articles there are, not comprised within any of the four heads, the XX. and XXVIII. The former of these relates to the government of Quebec, with which the revolted Colonies have no more to do, than with the government of Russia: The latter relates to the *humble* petitions they pretend to have presented "in every stage," as they style it, "of the oppressions," under which they pretend to labour. This we have seen to be false. No one humble petition; no one decent representation, have they offered.

By some, these acts have been improperly called "*Acts of punishment.*" And we are then asked, with an air of insult, "What! will you punish without a trial, without a hearing?" And no doubt punishment, whether ordinary or extraordinary; whether by *indictment*, *impeachment*, or bill of *attainder*, should be preceded by judicial examination. But, the acts comprised under this head are not acts of punishment; they are, as we have called them, acts of *self-defence*. And these are not, cannot be, preceded by any judicial examination. An example or two will serve to place the difference between acts of punishment and acts of self-defence in a stronger light, than any definition we can give. It has happened, that bodies of manufacturers have risen, and armed, in order to compel their masters to increase their wages: It has happened, that bodies of peasants have risen, and armed, in order to compel the farmer to sell at a lower price. It has happened, that the civil magistrate, unable to reduce the insurgents to their duty, has called the military to his aid. But did ever any man imagine, that the military were sent to punish the insurgents? It has happened, that the insurgents have resisted the military, as they had resisted the civil magistrate: It has happened, that, in consequence of this resistance, some of the insurgents have been killed:—But did ever any man imagine that those who were thus killed, were therefore *punished*? No more can they be said to be punished, than could the incendiary, who should be buried beneath the ruins of the house, which he had feloniously set on fire. Take an example yet nearer to the present case. When the Duke of Cumberland led the armies of the king, *foreign and domestic*, against the Rebels in Scotland, did any man conceive that he was

REVIEW.

Difference
between
Acts of
punishment
and Acts of
self-defence.

REVIEW. sent to *punish* the Rebels?—Clearly not.—He was sent to protect dutiful and loyal subjects, who remained in the peace of the King, against the outrages of Rebels, who had broken the peace of the King.—Does any man speak of those who fell at the battle of Culloden, as of men that were *punished*? Would that man have been thought in his senses, who should have urged, that the armies of the King should not have been sent against the Rebels in Scotland, till those very Rebels had been judicially heard, and judicially convicted? Does not every man feel that the fact, the *only* fact, necessary to be known, in order to justify these acts of self-defence, is simply this:—Are men in arms against the authority of the King?—Who does not feel, that to authenticate this fact, demands no judicial inquiry? If when his Royal Highness had led the army under his command into Scotland, there had been no body of men in arms; if, terrified at his approach, they had either laid down their arms and submitted, or had dispersed and retired quietly, each to his own home, what would have been the consequence? The civil magistrate would have searched for and seized upon those who *had* been in arms; would have brought them to a court of justice: That court would have proceeded to examine, and to condemn or to acquit, as evidence was, or was not, given of the guilt of the respective culprits. The Rebels did not submit, they did not lay down their arms, they did not disperse; they resisted the Duke: a battle ensued: some of the Rebels fled, others were slain, others taken. It is upon those only of the *last* class, who were brought before and condemned by Courts of Justice, that *punishment* was inflicted. By what kind of logic then are these acts ranked in the class of grievances?

THESE

THESE are the Acts—these exertions of constitutional, and hitherto, *undisputed* powers, for which, in this audacious paper, a patriot King is traduced—as “a Prince, whose character is marked by every Act which may define a tyrant;” as “unfit to be the ruler of a free people.” These are the Acts, these exertions of constitutional, and, hitherto, undisputed powers, by which the Members of the Congress declare their selves and their constituents to be “absolved from all allegiance to the British Crown;” pronounce “all political connection between Great Britain and America to be totally dissolved.” With that hypocrisy which pervades the whole of the Declaration, they pretend indeed, that this event is not of their seeking; that it is forced upon them; that they only “*acquiesce in the necessity which denounces their separation from us:*” which compels them hereafter to hold us, as they “hold the rest of mankind; *enemies in war; in peace, friends.*”

REVIEW.

The pretence of being forced to this step hypocritical.

How this Declaration may strike others, I know not. To me, I own, it appears that it cannot fail—to use the words of a great Orator—“of doing us *Knight’s service*.” The mouth of faction, we may reasonably presume, will be closed; the eyes of those who saw not, or would not see, that the Americans were long since aspiring at independence, will be opened; the nation will unite as one man, and teach this rebellious people, that it is one thing for them to *say*, the connection, which bound them to us, is *dissolved*, another to *dissolve* it; that to *accomplish* their independence is not quite so easy as to *declare* it: *that there is no*

Probable effects of this Declaration.

* Mr. Burke’s speech.

REVIEW.

peace with them, but the peace of the King: no war with them, but that war, which offended justice wages against criminals.—We too, I hope, shall acquiesce in the necessity of submitting to whatever burdens, of making whatever efforts may be necessary, to bring this ungrateful and rebellious people back to that allegiance they have long had it in contemplation to renounce, and have now at last so daringly renounced.



F I N I S.